

In the House of Representatives, U. S.,

November 18 (legislative day, November 17), 2005.

Resolved, That the bill from the Senate (S. 1932) entitled “An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Deficit Reduction Act*
3 *of 2005”.*

4 ***SEC. 2. TABLE OF TITLES.***

5 *The table of titles is as follows:*

TITLE I—COMMITTEE ON AGRICULTURE

TITLE II—COMMITTEE ON EDUCATION AND THE WORKFORCE

TITLE III—COMMITTEE ON ENERGY AND COMMERCE

TITLE IV—COMMITTEE ON FINANCIAL SERVICES

TITLE V—COMMITTEE ON THE JUDICIARY

TITLE VI—COMMITTEE ON RESOURCES

TITLE VII—COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE

TITLE VIII—COMMITTEE ON WAYS AND MEANS

1 **TITLE I—COMMITTEE ON**
2 **AGRICULTURE**

3 **SECTION 1001. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—This title may be cited as the “Ag-
5 ricultural Reconciliation Act of 2005”.

6 (b) *TABLE OF CONTENTS.*—The table of contents of this
7 title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Commodity Programs

*Sec. 1101. Percentage reduction in amount of direct payments for covered com-
modities and peanuts.*

*Sec. 1102. Reduction in percentage of direct payment amount authorized to be
paid in advance.*

Sec. 1103. Cotton competitiveness provisions.

Subtitle B—Conservation

*Sec. 1201. Limitations on use of Commodity Credit Corporation funds to carry
out watershed rehabilitation program.*

Sec. 1202. Conservation security program.

*Sec. 1203. Limitations on use of Commodity Credit Corporation funds to carry
out agricultural management assistance program.*

Subtitle C—Energy

*Sec. 1301. Termination of use of Commodity Credit Corporation funds to carry
out renewable energy systems and energy efficiency improve-
ments program.*

Subtitle D—Rural Development

Sec. 1401. Enhanced access to broadband telecommunications services in rural areas.

Sec. 1402. Value-added agricultural product market development grants.

Sec. 1403. Rural business investment program.

Sec. 1404. Rural business strategic investment grants.

Sec. 1405. Rural firefighters and emergency personnel grants.

Subtitle E—Research

Sec. 1501. Initiative for Future Food and Agriculture Systems.

Subtitle F—Nutrition

Sec. 1601. Eligible households.

Sec. 1602. Availability of commodities for the emergency food assistance program.

Sec. 1603. Residency requirement.

Sec. 1604. Disaster food stamp program.

1 ***Subtitle A—Commodity Programs***

2 ***SEC. 1101. PERCENTAGE REDUCTION IN AMOUNT OF DI-*** 3 ***RECT PAYMENTS FOR COVERED COMMOD-*** 4 ***ITIES AND PEANUTS.***

5 *(a) COVERED COMMODITIES.—Section 1103 of the*
 6 *Farm Security and Rural Investment Act of 2002 (7 U.S.C.*
 7 *7913) is amended—*

8 *(1) in subsection (c), by striking “The amount”*
 9 *and inserting “Except as provided in subsection (e),*
 10 *the amount”; and*

11 *(2) by adding at the end the following new sub-*
 12 *section:*

13 *“(e) DIRECT PAYMENT AMOUNT REDUCTION.—Not-*
 14 *withstanding subsection (c), for the 2006 and 2007 crop*
 15 *years (and the 2008 and 2009 crop years if direct payments*
 16 *are provided under this section for those crop years), the*
 17 *Secretary shall reduce the total amount of the direct pay-*

1 *ment to be paid to the producers on a farm for a covered*
 2 *commodity for the crop year concerned by an amount equal*
 3 *to 1 percent of the direct payment amount otherwise deter-*
 4 *mined for that farm for that covered commodity for that*
 5 *crop year. No reduction shall be made under the authority*
 6 *of this subsection if direct payments are made for the 2010*
 7 *or any subsequent crop year of a covered commodity.”.*

8 *(b) PEANUTS.—Section 1303 of such Act (7 U.S.C.*
 9 *7953) is amended—*

10 *(1) in subsection (d), by striking “The amount”*
 11 *and inserting “Except as provided in subsection (f),*
 12 *the amount”; and*

13 *(2) by adding at the end the following new sub-*
 14 *section:*

15 *“(f) DIRECT PAYMENT AMOUNT REDUCTION.—Not-*
 16 *withstanding subsection (d), for the 2006 and 2007 crops*
 17 *of peanuts (and the 2008 and 2009 crops of peanuts if di-*
 18 *rect payments are provided under this section for those*
 19 *crops), the Secretary shall reduce the total amount of the*
 20 *direct payment to be paid to the producers on a farm for*
 21 *that crop of peanuts by an amount equal to 1 percent of*
 22 *the direct payment amount otherwise determined for that*
 23 *farm for that crop of peanuts. No reduction shall be made*
 24 *under the authority of this subsection if direct payments*
 25 *are made for the 2010 or any subsequent crop of peanuts.”.*

1 **SEC. 1102. REDUCTION IN PERCENTAGE OF DIRECT PAY-**
 2 **MENT AMOUNT AUTHORIZED TO BE PAID IN**
 3 **ADVANCE.**

4 (a) *COVERED COMMODITIES.*—Section 1103(d)(2) of
 5 the *Farm Security and Rural Investment Act of 2002* (7
 6 U.S.C. 7913(d)(2)) is amended in the first sentence by strik-
 7 ing “2007 crop years” and inserting “2005 crop years and
 8 up to 40 percent of the direct payment for a covered com-
 9 modity for each of the 2006 and 2007 crop years”.

10 (b) *PEANUTS.*—Section 1303(e)(2) of such Act (7
 11 U.S.C. 7953(e)(2)) is amended in the first sentence by strik-
 12 ing “2007 crop years” and inserting “2005 crop years and
 13 up to 40 percent of the direct payment for each of the 2006
 14 and 2007 crop years”.

15 **SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

16 (a) *REPEAL OF AUTHORITY TO ISSUE COTTON USER*
 17 *MARKETING CERTIFICATES.*—Section 1207 of the *Farm Se-*
 18 *curity and Rural Investment Act of 2002* (7 U.S.C. 7937)
 19 is amended—

20 (1) by striking the section heading and inserting
 21 the following: “**UPLAND COTTON IMPORT**
 22 **QUOTAS.**”;

23 (2) by striking subsection (a);

24 (3) by redesignating subsections (b) and (c) as
 25 subsections (a) and (b), respectively;

26 (4) in subsection (a), as so redesignated—

1 (A) in paragraph (1)—

2 (i) in subparagraph (B), by striking “,
3 adjusted for the value of any certificate
4 issued under subsection (a),”; and

5 (ii) in subparagraph (C), by striking
6 “, for the value of any certificates issued
7 under subsection (a),”; and

8 (B) in paragraph (4), by striking “sub-
9 section (c)” and inserting “subsection (b)”; and

10 (5) in subsection (b)(2), as so redesignated, by
11 striking “subsection (b)” and inserting “subsection
12 (a)”.

13 (b) *CONFORMING AMENDMENT.*—Section 136 of the
14 *Federal Agriculture Improvement and Reform Act of 1996*
15 *(7 U.S.C. 7236)* is repealed.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section take effect on August 1, 2006.

18 **Subtitle B—Conservation**

19 **SEC. 1201. LIMITATIONS ON USE OF COMMODITY CREDIT** 20 **CORPORATION FUNDS TO CARRY OUT WATER-** 21 **SHED REHABILITATION PROGRAM.**

22 (a) *FISCAL YEAR 2007 FUNDING.*—Subparagraph (E)
23 of section 14(h)(1) of the *Watershed Protection and Flood*
24 *Prevention Act (16 U.S.C. 1012(h)(1))* is amended by strik-
25 ing “\$65,000,000” and inserting “\$50,000,000”.

1 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
2 *FUNDS.*—*Such section is further amended by striking “, to*
3 *remain available until expended” in the matter preceding*
4 *subparagraph (A).*

5 (c) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
6 *FUNDS.*—*Funds previously made available under such sec-*
7 *tion for a fiscal year and unobligated as of September 30,*
8 *2006, are hereby rescinded effective on that date.*

9 **SEC. 1202. CONSERVATION SECURITY PROGRAM.**

10 (a) *FUNDING.*—*Section 1241(a) of the Food Security*
11 *Act of 1985 (16 U.S.C. 3841(a)) is amended—*

12 (1) *in the matter before paragraph (1), by strik-*
13 *ing “For” and inserting “Except as otherwise pro-*
14 *vided in this subsection, for”; and*

15 (2) *in paragraph (3), by striking “not more than*
16 *\$6,037,000,000” and all that follows through “2014.”*
17 *and inserting the following:*

18 *“not more than—*

19 *“(A) \$2,213,000,000 for the period of fiscal*
20 *years 2006 through 2010; and*

21 *“(B) \$5,729,000,000 for the period of fiscal*
22 *years 2006 through 2015.”.*

23 (b) *DURATION.*—*Section 1238A(a) of such Act (16*
24 *U.S.C. 3838a(a)) is amended by striking “2007” and in-*
25 *serting “2011”.*

1 **SEC. 1203. LIMITATIONS ON USE OF COMMODITY CREDIT**
 2 **CORPORATION FUNDS TO CARRY OUT AGRI-**
 3 **CULTURAL MANAGEMENT ASSISTANCE PRO-**
 4 **GRAM.**

5 *Section 524(b)(4)(B) of the Federal Crop Insurance*
 6 *Act (7 U.S.C. 1524(b)(4)(B)) is amended—*

7 *(1) in clause (i), by inserting before the period*
 8 *at the end the following: “, except fiscal years 2007*
 9 *through 2010”; and*

10 *(2) in clauses (ii) and (iii), by striking “2007”*
 11 *both places it appears and inserting “2006”.*

12 ***Subtitle C—Energy***

13 **SEC. 1301. TERMINATION OF USE OF COMMODITY CREDIT**
 14 **CORPORATION FUNDS TO CARRY OUT RE-**
 15 **NEWABLE ENERGY SYSTEMS AND ENERGY EF-**
 16 **FICIENCY IMPROVEMENTS PROGRAM.**

17 *Section 9006(f) of the Farm Security and Rural In-*
 18 *vestment Act of 2002 (7 U.S.C. 8106(f)) is amended by*
 19 *striking “2007” and inserting “2006”.*

20 ***Subtitle D—Rural Development***

21 **SEC. 1401. ENHANCED ACCESS TO BROADBAND TELE-**
 22 **COMMUNICATIONS SERVICES IN RURAL**
 23 **AREAS.**

24 *(a) TERMINATION OF FISCAL YEAR 2007 FUNDING.—*
 25 *Subparagraph (B) of section 601(j)(1) of the Rural Elec-*
 26 *trification Act of 1936 (7 U.S.C. 950bb(j)(1)) is amended*

1 *by striking “for each of fiscal years 2006 and 2007” and*
2 *inserting “for fiscal year 2006”.*

3 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
4 *FUNDS.—Such section is further amended by striking “, to*
5 *remain available until expended” both places it appears.*

6 (c) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
7 *FUNDS.—Funds previously made available under such sec-*
8 *tion for a fiscal year and unobligated as of September 30,*
9 *2006, are hereby rescinded effective on that date.*

10 **SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MAR-**
11 **KET DEVELOPMENT GRANTS.**

12 (a) *TERMINATION OF FISCAL YEAR 2007 FUNDING.—*
13 *Section 231(b)(4) of the Agricultural Risk Protection Act*
14 *of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) is*
15 *amended by striking “October 1, 2006” and inserting “Oc-*
16 *tober 1, 2005”.*

17 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
18 *FUNDS.—Such section is further amended by striking “, to*
19 *remain available until expended”.*

20 (c) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
21 *FUNDS.—Funds previously made available under such sec-*
22 *tion for a fiscal year and unobligated as of September 30,*
23 *2006, are hereby rescinded effective on that date.*

1 **SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.**

2 (a) *TERMINATION OF FISCAL YEAR 2007 AND SUBSE-*
 3 *QUENT FUNDING.*—Subsection (a)(1) of section 384S of the
 4 *Consolidated Farm and Rural Development Act (7 U.S.C.*
 5 *2009cc–18)* is amended by inserting after “necessary” the
 6 following: “through fiscal year 2006”.

7 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
 8 *FUNDS.*—Such section is further amended—

9 (1) by striking “(a) *IN GENERAL.*—”; and

10 (2) by striking subsection (b).

11 (c) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
 12 *FUNDS.*—Funds previously made available under such sec-
 13 tion and unobligated as of September 30, 2006, are hereby
 14 rescinded effective on that date.

15 **SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT**
 16 **GRANTS.**

17 (a) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
 18 *FUNDS.*—Subsection (a) of section 385E of the *Consolidated*
 19 *Farm and Rural Development Act (7 U.S.C. 2009dd–4)* is
 20 amended by striking “, to remain available until ex-
 21 pended,”.

22 (b) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
 23 *FUNDS.*—Funds previously made available under such sec-
 24 tion and unobligated as of September 30, 2006, are hereby
 25 rescinded effective on that date.

1 **SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PER-**
 2 **SONNEL GRANTS.**

3 (a) *TERMINATION OF FISCAL YEAR 2007 FUNDING.*—
 4 *Section 6405(c) of the Farm Security and Rural Investment*
 5 *Act of 2002 (7 U.S.C. 2655(c)) is amended by striking*
 6 *“2007” and inserting “2006”.*

7 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
 8 *FUNDS.*—*Such section is further amended by striking “, to*
 9 *remain available until expended”.*

10 (c) *RESCISSION OF UNOBLIGATED PRIOR-YEAR*
 11 *FUNDS.*—*Funds previously made available under such sec-*
 12 *tion for a fiscal year and unobligated as of September 30,*
 13 *2006, are hereby rescinded effective on that date.*

14 ***Subtitle E—Research***

15 **SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE**
 16 **CULTURE SYSTEMS.**

17 (a) *TERMINATION OF FISCAL YEAR 2007, 2008, AND*
 18 *2009 TRANSFERS.*—*Subsection (b)(3)(D) of section 401 of*
 19 *the Agricultural Research, Extension, and Education Re-*
 20 *form Act of 1998 (7 U.S.C. 7621) is amended by striking*
 21 *“2006” and inserting “2009”.*

22 (b) *TERMINATION OF MULTI-YEAR AVAILABILITY OF*
 23 *FISCAL YEAR 2006 FUNDS.*—*Paragraph (6) of subsection*
 24 *(f) of such section is amended to read as follows:*

25 “(6) *AVAILABILITY OF FUNDS.*—

1 “(A) *TWO-YEAR AVAILABILITY.*—*Except as*
 2 *provided in subparagraph (B), funds for grants*
 3 *under this section shall be available to the Sec-*
 4 *retary for obligation for a 2-year period begin-*
 5 *ning on the date of the transfer of the funds*
 6 *under subsection (b).*”

7 “(B) *EXCEPTION FOR FISCAL YEAR 2006*
 8 *TRANSFER.*—*In the case of the funds required to*
 9 *be transferred by subsection (b)(3)(C), the funds*
 10 *shall be available to the Secretary for obligation*
 11 *for the 1-year period beginning on October 1,*
 12 *2005.”.*”

13 ***Subtitle F—Nutrition***

14 ***SEC. 1601. ELIGIBLE HOUSEHOLDS.***

15 *(a) ELIGIBLE HOUSEHOLDS.*—*The Food Stamp Act of*
 16 *1977 (7 U.S.C. 2011 et seq.) is amended—*

17 *(1) in section 5—*

18 *(A) in the 2d sentence of subsection (a); and*

19 *(B) in subsection (j);*

20 *by striking “receives benefits” each place it appears*
 21 *and inserting “in fiscal years 2006 through 2010 re-*
 22 *ceives cash assistance, and in any other fiscal year re-*
 23 *ceives benefits,”;*

24 *(2) in section 5(a) by adding at the end the fol-*
 25 *lowing:*

1 “Notwithstanding any other provisions of this Act except
2 sections 6(b), 6(d)(2), and 6(g) and section 3(i)(4), house-
3 holds in which each member receives substantial and ongo-
4 ing noncash benefits under a State program funded under
5 part A of title IV of the Social Security Act (42 U.S.C.
6 601 et seq.) provided for purposes of shelter, utilities, child
7 care, health care, transportation, or job training, and that
8 have a monthly income that does not exceed (before the ex-
9 clusions and deductions provided for in subsections (d) and
10 (e)) 150 percent of the poverty line, as defined in section
11 673(2) of the Community Services Block Grant Act (42
12 U.S.C. 9902(2)), for the forty-eight contiguous States and
13 the District of Columbia, Alaska, Hawaii, the Virgin Is-
14 lands of the United States, and Guam, respectively, shall
15 be eligible to participate in the food stamp program.”; and

16 (3) in section 5(j) by adding at the end the fol-
17 lowing:

18 “Notwithstanding subsections (a) through (i), a State agen-
19 cy shall consider a member of a household in which each
20 household member receives substantial and ongoing noncash
21 benefits under a State program funded under part A of title
22 IV of the Social Security Act (42 U.S.C. 601 et seq.) pro-
23 vided for purposes of shelter, utilities, child care, health
24 care, transportation, or job training, and which has a
25 monthly income that does not exceed (before the exclusions

1 *and deductions provided for in subsections (d) and (e)) 150*
 2 *percent of the poverty line, as defined in section 673(2) of*
 3 *the Community Services Block Grant Act (42 U.S.C.*
 4 *9902(2)), for the forty-eight contiguous States and the Dis-*
 5 *trict of Columbia, Alaska, Hawaii, the Virgin Islands of*
 6 *the United States, and Guam, respectively, to have satisfied*
 7 *the resource limitations prescribed under subsection (g).”.*

8 (b) *EXTENSIONS.—The Food Stamp Act of 1977 (7*
 9 *U.S.C. 2011 et seq.) is amended in—*

10 (1) *section 11(t)(1);*

11 (2) *section 16—*

12 (A) *in subparagraphs (A)(vii) and (E)(i) of*
 13 *subsection (h)(1); and*

14 (B) *in subparagraphs (A) and (B)(ii) of*
 15 *subsection (k)(3);*

16 (3) *section 17(b)(1)(B)(vi);*

17 (4) *section 18(a); and*

18 (5) *section 19(a)(2)(A)(ii);*

19 *by striking “2007” each place it appears and inserting*
 20 *“2011”.*

21 (c) *CERTIFICATION FOR SCHOOL LUNCH PROGRAM.—*
 22 *Section 9 of the Richard B. Russell National School Lunch*
 23 *Act (42 U.S.C. 1758) is amended—*

24 (1) *in subsection (b)(12)—*

25 (A) *in subparagraph (A)—*

1 (i) in clause (v), by striking “; or” and
2 inserting a semicolon;

3 (ii) in clause (vi), by striking the pe-
4 riod and inserting “; or”; and

5 (iii) by adding at the end the following
6 new clause:

7 “(vii) a member of a household in
8 which each member receives or is eligible to
9 receive non-cash or in-kind benefits under a
10 State program funded under part A of title
11 IV of the Social Security Act (42 U.S.C.
12 601 et seq.), and requires participants to
13 have a gross monthly income at or below
14 200 percent of the Federal poverty level.”;
15 and

16 (B) in subparagraph (B), by striking “or
17 assistance” and inserting “, benefits, or assist-
18 ance”; and

19 (2) in subsection (d)(2)—

20 (A) in subparagraph (D), by striking “; or”
21 and inserting a semicolon;

22 (B) in subparagraph (E), by striking the
23 period and inserting “; or”; and

24 (C) by adding at the end the following:

1 “(F) documentation has been provided to
 2 the local educational agency showing that the
 3 household is one in which each member receives
 4 or is eligible to receive non-cash or in-kind bene-
 5 fits under a State program funded under part A
 6 of title IV of the Social Security Act (42 U.S.C.
 7 601 et seq.), and requires participants to have a
 8 gross monthly income at or below 200 percent of
 9 the Federal poverty level.”.

10 **SEC. 1602. AVAILABILITY OF COMMODITIES FOR THE EMER-**
 11 **GENCY FOOD ASSISTANCE PROGRAM.**

12 Section 27(a) of the Food Stamp Act of 1977 (7 U.S.C.
 13 2036(a)) is amended—

14 (1) by striking “2007,” and inserting “2005 and
 15 for each of the fiscal years 2007 through 2011”;

16 (2) by inserting “, and for fiscal year 2006 the
 17 Secretary shall purchase \$152,000,000,” before “of a
 18 variety”; and

19 (3) by adding at the end the following:

20 “Of the funds used to purchase commodities in accordance
 21 with this subsection for fiscal year 2006, \$12,000,000 shall
 22 be used to purchase commodities for distribution to States
 23 that received a Presidential designation of a major disaster
 24 under the Robert T. Stafford Disaster Relief and Emer-
 25 gency Assistance Act (42 U.S.C. 5121–5206) as a result of

1 *Hurricane Katrina or Hurricane Rita and States contig-*
 2 *uous to those States.”.*

3 **SEC. 1603. RESIDENCY REQUIREMENT.**

4 *Section 402(a)(2)(L) of the Personal Responsibility*
 5 *and Work Opportunity Reconciliation Act of 1996 (8*
 6 *U.S.C. 1612(a)(2)(L)) is amended by striking “for a period*
 7 *of 5 years or more beginning” and inserting the following:*
 8 *“for a period—*

9 *“(1) effective until September 30, 2010—*

10 *“(A) for an alien—*

11 *“(i)(I) who is 60 years of age or older;*

12 *or*

13 *“(II) with respect to whom—*

14 *“(aa) an application for natu-*
 15 *ralization under Immigration and Na-*
 16 *tionality Act is approved; or*

17 *“(bb) such application is pending*
 18 *under such Act and no previous appli-*
 19 *cation for naturalization has been re-*
 20 *jected under such Act; and*

21 *“(ii) who is a member of a household*
 22 *that receives food stamp benefits;*

23 *as of the date of the enactment of the Agricul-*
 24 *tural Reconciliation Act of 2005, of 5 years or*
 25 *more; and*

1 “(B) for an alien with respect to whom sub-
2 paragraph (A) does not apply, of 7 years or
3 more; and

4 “(2) effective beginning on October 1, 2010, of 5
5 years or more;
6 beginning”.

7 **SEC. 1604. DISASTER FOOD STAMP PROGRAM.**

8 Notwithstanding section 16(a) of the Food Stamp Act
9 of 1977 (7 U.S.C. 2025(a)), the Secretary of Agriculture
10 is authorized, at the discretion of the Secretary, to pay to
11 State agencies 100 percent of the administrative costs in-
12 curred in the certification of, and issuance of benefits to,
13 applicant households that become eligible to receive food
14 stamp benefits under the disaster food stamp program eligi-
15 bility standards in effect during the Presidentially declared
16 emergency in response to Hurricane Katrina or Hurricane
17 Rita.

18 **TITLE II—COMMITTEE ON EDU-**
19 **CATION AND THE WORK-**
20 **FORCE**

21 **SECTION 2000. TABLE OF CONTENTS.**

22 *The table of contents of this title is as follows:*

TITLE II—COMMITTEE ON EDUCATION AND THE WORKFORCE

Sec. 2000. Table of contents.

*Subtitle A—Welfare Reform**PART 1—SHORT TITLE; REFERENCES*

- Sec. 2001. Short title.*
Sec. 2002. References.

PART 2—TANF

- Sec. 2011. Universal engagement and family self-sufficiency plan requirements.*
Sec. 2012. Work participation requirements.
Sec. 2013. Work-related performance improvement.
Sec. 2014. Report on coordination.
Sec. 2015. Fatherhood program.
Sec. 2016. State option to make TANF programs mandatory partners with one-stop employment training centers.
Sec. 2017. Sense of the Congress.
Sec. 2018. Prohibition on offshoring.

PART 3—CHILD CARE

- Sec. 2021. Short title.*
Sec. 2022. Goals.
Sec. 2023. Authorization of appropriations.
Sec. 2024. Application and plan.
Sec. 2025. Activities to improve the quality of child care.
Sec. 2026. Reports and audits.
Sec. 2027. Report by Secretary.
Sec. 2028. Definitions.
Sec. 2029. Waiver authority to expand the availability of services under Child Care and Development Block Grant Act of 1990.

PART 4—STATE AND LOCAL FLEXIBILITY

- Sec. 2041. Program coordination demonstration projects.*

PART 5—EFFECTIVE DATE

- Sec. 2051. Effective date.*

Subtitle B—Higher Education

- Sec. 2101. Short title.*

PART 1—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

- Sec. 2111. References; effective date.*
Sec. 2112. Modification of 50/50 Rule.
Sec. 2113. Reauthorization of Federal Family Education Loan Program.
Sec. 2114. Loan limits.
Sec. 2115. Interest rates and special allowances.
Sec. 2116. Additional loan terms and conditions.
Sec. 2117. Consolidation loan changes.
Sec. 2118. Deferment of student loans for military service.
Sec. 2119. Loan forgiveness for service in areas of national need.
Sec. 2120. Unsubsidized Stafford loans.
Sec. 2121. Elimination of termination dates from Taxpayer-Teacher Protection Act of 2004.

- Sec. 2122. Loan fees from lenders.*
Sec. 2123. Additional administrative provisions.
Sec. 2124. Funds for administrative expenses.
Sec. 2125. Significantly simplifying the student aid application process.
Sec. 2126. Additional need analysis amendments.
Sec. 2127. Definition of eligible program.
Sec. 2128. Distance education.
Sec. 2129. Student eligibility.
Sec. 2130. Institutional refunds.
Sec. 2131. College access initiative.
Sec. 2132. Cancellation of Student Loan Indebtedness For Survivors of Victims of the September 11, 2001, Attacks.
Sec. 2133. Independent evaluation of distance education programs.
Sec. 2134. Disbursement of student loans.

PART 2—HIGHER EDUCATION RELIEF

- Sec. 2141. References.*
Sec. 2142. Waivers and modifications.
Sec. 2143. Cancellation of institutional repayment by colleges and universities affected by a Gulf hurricane disaster.
Sec. 2144. Cancellation of student loans for cancelled enrollment periods.
Sec. 2145. Temporary deferment of student loan repayment.
Sec. 2146. No affect on grant and loan limits.
Sec. 2147. Teacher loan relief.
Sec. 2148. Expanding information dissemination regarding eligibility for Pell Grants.
Sec. 2149. Procedures.
Sec. 2150. Termination of authority.
Sec. 2151. Definitions.

Subtitle C—Pensions

- Sec. 2201. Increases in PBGC premiums.*

1 ***Subtitle A—Welfare Reform***

2 ***PART 1—SHORT TITLE; REFERENCES***

3 ***SEC. 2001. SHORT TITLE.***

4 *This subtitle may be cited as the “Personal Responsi-*
 5 *bility, Work, and Family Promotion Act of 2005”.*

6 ***SEC. 2002. REFERENCES.***

7 *Except as otherwise expressly provided, wherever in*
 8 *this subtitle an amendment or repeal is expressed in terms*
 9 *of an amendment to, or repeal of, a section or other provi-*
 10 *sion, the amendment or repeal shall be considered to be*

1 *made to a section or other provision of the Social Security*
 2 *Act.*

3 ***PART 2—TANF***

4 ***SEC. 2011. UNIVERSAL ENGAGEMENT AND FAMILY SELF-***
 5 ***SUFFICIENCY PLAN REQUIREMENTS.***

6 *(a) MODIFICATION OF STATE PLAN REQUIREMENTS.—*
 7 *Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A)) is amended*
 8 *by striking clauses (ii) and (iii) and inserting the following:*

9 *“(ii) Require a parent or caretaker re-*
 10 *ceiving assistance under the program to en-*
 11 *gage in work or alternative self-sufficiency*
 12 *activities (as defined by the State), con-*
 13 *sistent with section 407(e)(2).*

14 *“(iii) Require families receiving assist-*
 15 *ance under the program to engage in activi-*
 16 *ties in accordance with family self-suffi-*
 17 *ciency plans developed pursuant to section*
 18 *408(b).”.*

19 *(b) ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY*
 20 *PLANS.—*

21 *(1) IN GENERAL.—Section 408(b) (42 U.S.C.*
 22 *608(b)) is amended to read as follows:*

23 *“(b) FAMILY SELF-SUFFICIENCY PLANS.—*

24 *“(1) IN GENERAL.—A State to which a grant is*
 25 *made under section 403 shall—*

1 “(A) assess, in the manner deemed appro-
2 priate by the State, the skills, prior work experi-
3 ence, and employability of each work-eligible in-
4 dividual (as defined in section 407(b)(2)(C)) re-
5 ceiving assistance under the State program fund-
6 ed under this part;

7 “(B) establish for each family that includes
8 such an individual, in consultation as the State
9 deems appropriate with the individual, a self-
10 sufficiency plan that specifies appropriate activi-
11 ties described in the State plan submitted pursu-
12 ant to section 402, including direct work activi-
13 ties as appropriate designed to assist the family
14 in achieving their maximum degree of self-suffi-
15 ciency, and that provides for the ongoing partici-
16 pation of the individual in the activities;

17 “(C) require, at a minimum, each such in-
18 dividual to participate in activities in accord-
19 ance with the self-sufficiency plan;

20 “(D) monitor the participation of each such
21 individual in the activities specified in the self-
22 sufficiency plan, and regularly review the
23 progress of the family toward self-sufficiency;

1 “(E) upon such a review, revise the self-suf-
2 ficiency plan and activities as the State deems
3 appropriate.

4 “(2) *TIMING.*—The State shall comply with
5 paragraph (1) with respect to a family—

6 “(A) in the case of a family that, as of Oc-
7 tober 1, 2005, is not receiving assistance from
8 the State program funded under this part, not
9 later than 60 days after the family first receives
10 assistance on the basis of the most recent appli-
11 cation for the assistance; or

12 “(B) in the case of a family that, as of such
13 date, is receiving the assistance, not later than
14 12 months after the date of enactment of this
15 subsection.

16 “(3) *STATE DISCRETION.*—A State shall have
17 sole discretion, consistent with section 407, to define
18 and design activities for families for purposes of this
19 subsection, to develop methods for monitoring and re-
20 viewing progress pursuant to this subsection, and to
21 make modifications to the plan as the State deems
22 appropriate to assist the individual in increasing
23 their degree of self-sufficiency.

24 “(4) *RULE OF INTERPRETATION.*—Nothing in
25 this part shall preclude a State from--

1 “(A) requiring participation in work and
2 any other activities the State deems appropriate
3 for helping families achieve self-sufficiency and
4 improving child well-being; or

5 “(B) using job search or other appropriate
6 job readiness or work activities to assess the em-
7 ployability of individuals and to determine ap-
8 propriate future engagement activities.”.

9 (2) *PENALTY FOR FAILURE TO ESTABLISH FAM-*
10 *ILY SELF-SUFFICIENCY PLAN.*—Section 409(a)(3) (42
11 *U.S.C. 609(a)(3)*) is amended—

12 (A) in the paragraph heading, by inserting
13 “OR ESTABLISH FAMILY SELF-SUFFICIENCY
14 PLAN” after “RATES”; and

15 (B) in subparagraph (A), by inserting “or
16 408(b)” after “407(a)”.

17 **SEC. 2012. WORK PARTICIPATION REQUIREMENTS.**

18 (a) *ELIMINATION OF SEPARATE PARTICIPATION RATE*
19 *REQUIREMENTS FOR 2-PARENT FAMILIES.*—

20 (1) Section 407 (42 U.S.C. 607) is amended in
21 each of subsections (a) and (b) by striking paragraph
22 (2).

23 (2) Section 407(b)(4) (42 U.S.C. 607(b)(4)) is
24 amended by striking “paragraphs (1)(B) and (2)(B)”
25 and inserting “paragraph (1)(B)”.

1 (3) *Section 407(c)(1) (42 U.S.C. 607(c)(1)) is*
 2 *amended by striking subparagraph (B).*

3 (4) *Section 407(c)(2)(D) (42 U.S.C.*
 4 *607(c)(2)(D)) is amended by striking “paragraphs*
 5 *(1)(B)(i) and (2)(B) of subsection (b)” and inserting*
 6 *“subsection (b)(1)(B)(i)”.*

7 **(b) WORK PARTICIPATION REQUIREMENTS.**—*Section*
 8 *407 (42 U.S.C. 607) is amended by striking all that pre-*
 9 *cedes subsection (b)(3) and inserting the following:*

10 **“SEC. 407. WORK PARTICIPATION REQUIREMENTS.**

11 **“(a) PARTICIPATION RATE REQUIREMENTS.**—*A State*
 12 *to which a grant is made under section 403 for a fiscal*
 13 *year shall achieve a minimum participation rate equal to*
 14 *not less than—*

15 *“(1) 50 percent for fiscal year 2006;*

16 *“(2) 55 percent for fiscal year 2007;*

17 *“(3) 60 percent for fiscal year 2008;*

18 *“(4) 65 percent for fiscal year 2009; and*

19 *“(5) 70 percent for fiscal year 2010 and each*
 20 *succeeding fiscal year.*

21 **“(b) CALCULATION OF PARTICIPATION RATES.**—

22 **“(1) AVERAGE MONTHLY RATE.**—*For purposes of*
 23 *subsection (a), the participation rate of a State for a*
 24 *fiscal year is the average of the participation rates of*
 25 *the State for each month in the fiscal year.*

1 “(2) *MONTHLY PARTICIPATION RATES; INCORPORATION OF 40-HOUR WORK WEEK STANDARD.*—

2
3 “(A) *IN GENERAL.*—*For purposes of paragraph (1), the participation rate of a State for a month is—*

4
5
6 “(i) *the total number of countable hours (as defined in subsection (c)) with respect to the counted families for the State for the month; divided by*

7
8
9
10 “(ii) *160 multiplied by the number of counted families for the State for the month.*

11
12 “(B) *COUNTED FAMILIES DEFINED.*—

13 “(i) *IN GENERAL.*—*In subparagraph (A), the term ‘counted family’ means, with respect to a State and a month, a family that includes a work-eligible individual and that receives assistance in the month under the State program funded under this part, subject to clause (ii).*

14
15
16
17
18
19
20 “(ii) *STATE OPTION TO EXCLUDE CERTAIN FAMILIES.*—*At the option of a State, the term ‘counted family’ shall not include—*

21
22
23
24 “(I) *a family in the first month for which the family receives assistance*

25

1 *from a State program funded under*
 2 *this part on the basis of the most re-*
 3 *cent application for such assistance;*

4 “(II) *on a case-by-case basis, a*
 5 *family in which the youngest child has*
 6 *not attained 12 months of age; or*

7 “(III) *a family that is subject to*
 8 *a sanction under this part or part D,*
 9 *but that has not been subject to such a*
 10 *sanction for more than 3 months*
 11 *(whether or not consecutive) in the pre-*
 12 *ceding 12-month period.*

13 “(iii) *STATE OPTION TO INCLUDE INDI-*
 14 *VIDUALS RECEIVING ASSISTANCE UNDER A*
 15 *TRIBAL FAMILY ASSISTANCE PLAN OR TRIB-*
 16 *AL WORK PROGRAM.—At the option of a*
 17 *State, the term ‘counted family’ may in-*
 18 *clude families in the State that are receiv-*
 19 *ing assistance under a tribal family assist-*
 20 *ance plan approved under section 412 or*
 21 *under a tribal work program to which*
 22 *funds are provided under this part.*

23 “(C) *WORK-ELIGIBLE INDIVIDUAL DE-*
 24 *FINED.—In this section, the term ‘work-eligible*
 25 *individual’ means an individual—*

1 “(i) *who is married or a single head of*
2 *household; and*

3 “(ii) *whose needs are (or, but for sanc-*
4 *tions under this part or part D, would be)*
5 *included in determining the amount of cash*
6 *assistance to be provided to the family*
7 *under the State program funded under this*
8 *part.”.*

9 (c) *RECALIBRATION OF CASELOAD REDUCTION CRED-*
10 *IT.—*

11 (1) *IN GENERAL.—Section 407(b)(3)(A)(ii) (42*
12 *U.S.C. 607(b)(3)(A)(ii)) is amended to read as fol-*
13 *lows:*

14 “(ii) *the average monthly number of*
15 *families that received assistance under the*
16 *State program funded under this part dur-*
17 *ing the base year.”.*

18 (2) *CONFORMING AMENDMENT.—Section*
19 *407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by*
20 *striking “and eligibility criteria” and all that follows*
21 *through the close parenthesis and inserting “and the*
22 *eligibility criteria in effect during the then applicable*
23 *base year”.*

1 (3) *BASE YEAR DEFINED.*—Section 407(b)(3) (42
 2 *U.S.C. 607(b)(3)) is amended by adding at the end*
 3 *the following:*

4 “(C) *BASE YEAR DEFINED.*—*In this para-*
 5 *graph, the term ‘base year’ means, with respect*
 6 *to a fiscal year—*

7 “(i) *if the fiscal year is fiscal year*
 8 *2006, fiscal year 1996;*

9 “(ii) *if the fiscal year is fiscal year*
 10 *2007, fiscal year 1998;*

11 “(iii) *if the fiscal year is fiscal year*
 12 *2008, fiscal year 2001; or*

13 “(iv) *if the fiscal year is fiscal year*
 14 *2009 or any succeeding fiscal year, the then*
 15 *4th preceding fiscal year.”.*

16 (d) *SUPERACHIEVER CREDIT.*—Section 407(b) (42
 17 *U.S.C. 607(b)) is amended by striking paragraphs (4) and*
 18 *(5) and inserting the following:*

19 “(4) *SUPERACHIEVER CREDIT.*—

20 “(A) *IN GENERAL.*—*The participation rate,*
 21 *determined under paragraphs (1) and (2) of this*
 22 *subsection, of a superachiever State for a fiscal*
 23 *year shall be increased by the lesser of—*

24 “(i) *the amount (if any) of the super-*
 25 *achiever credit applicable to the State; or*

1 “(ii) the number of percentage points
2 (if any) by which the minimum participa-
3 tion rate required by subsection (a) for the
4 fiscal year exceeds 50 percent.

5 “(B) *SUPERACHIEVER STATE*.—For pur-
6 poses of subparagraph (A), a State is a super-
7 achiever State if the State caseload for fiscal
8 year 2001 has declined by at least 60 percent
9 from the State caseload for fiscal year 1995.

10 “(C) *AMOUNT OF CREDIT*.—The super-
11 achiever credit applicable to a State is the num-
12 ber of percentage points (if any) by which the de-
13 cline referred to in subparagraph (B) exceeds 60
14 percent.

15 “(D) *DEFINITIONS*.—In this paragraph:

16 “(i) *STATE CASELOAD FOR FISCAL*
17 *YEAR 2001*.—The term ‘State caseload for
18 fiscal year 2001’ means the average monthly
19 number of families that received assistance
20 during fiscal year 2001 under the State
21 program funded under this part.

22 “(ii) *STATE CASELOAD FOR FISCAL*
23 *YEAR 1995*.—The term ‘State caseload for
24 fiscal year 1995’ means the average monthly
25 number of families that received aid under

1 the State plan approved under part A (as
2 in effect on September 30, 1995) during fis-
3 cal year 1995.”.

4 (e) *COUNTABLE HOURS*.—Section 407 (42 U.S.C. 607)
5 is amended by striking subsections (c) and (d) and insert-
6 ing the following:

7 “(c) *COUNTABLE HOURS*.—

8 “(1) *DEFINITION*.—In subsection (b)(2), the term
9 ‘countable hours’ means, with respect to a family for
10 a month, the total number of hours in the month in
11 which any member of the family who is a work-eligi-
12 ble individual is engaged in a direct work activity or
13 other activities specified by the State (excluding an
14 activity that does not address a purpose specified in
15 section 401(a)), subject to the other provisions of this
16 subsection.

17 “(2) *LIMITATIONS*.—Subject to such regulations
18 as the Secretary may prescribe:

19 “(A) *MINIMUM WEEKLY AVERAGE OF 24*
20 *HOURS OF DIRECT WORK ACTIVITIES RE-*
21 *QUIRED*.—If the work-eligible individuals in a
22 family are engaged in a direct work activity for
23 an average total of fewer than 24 hours per week
24 in a month, then the number of countable hours

1 *with respect to the family for the month shall be*
 2 *zero.*

3 “(B) *MAXIMUM WEEKLY AVERAGE OF 16*
 4 *HOURS OF OTHER ACTIVITIES.—An average of*
 5 *not more than 16 hours per week of activities*
 6 *specified by the State (subject to the exclusion de-*
 7 *scribed in paragraph (1)) may be considered*
 8 *countable hours in a month with respect to a*
 9 *family.*

10 “(3) *SPECIAL RULES.—For purposes of para-*
 11 *graph (1):*

12 “(A) *PARTICIPATION IN QUALIFIED ACTIVI-*
 13 *TIES.—*

14 “(i) *IN GENERAL.—If, with the ap-*
 15 *proval of the State, the work-eligible indi-*
 16 *viduals in a family are engaged in 1 or*
 17 *more qualified activities for an average*
 18 *total of at least 24 hours per week in a*
 19 *month, then all such engagement in the*
 20 *month shall be considered engagement in a*
 21 *direct work activity, subject to clause (iii).*

22 “(ii) *QUALIFIED ACTIVITY DEFINED.—*
 23 *The term ‘qualified activity’ means an ac-*
 24 *tivity specified by the State (subject to the*
 25 *exclusion described in paragraph (1)) that*

1 *meets such standards and criteria as the*
 2 *State may specify, including—*

3 *“(I) substance abuse counseling or*
 4 *treatment;*

5 *“(II) rehabilitation treatment and*
 6 *services;*

7 *“(III) work-related education or*
 8 *training directed at enabling the fam-*
 9 *ily member to work;*

10 *“(IV) job search or job readiness*
 11 *assistance; and*

12 *“(V) any other activity that ad-*
 13 *dresses a purpose specified in section*
 14 *401(a).*

15 *“(iii) LIMITATION.—*

16 *“(I) IN GENERAL.—Except as pro-*
 17 *vided in subclause (II), clause (i) shall*
 18 *not apply to a family for more than 3*
 19 *months in any period of 24 consecutive*
 20 *months.*

21 *“(II) SPECIAL RULE APPLICABLE*
 22 *TO EDUCATION AND TRAINING.—A*
 23 *State may, on a case-by-case basis,*
 24 *apply clause (i) to a work-eligible indi-*
 25 *vidual so that participation by the in-*

1 *dividual in education or training, if*
2 *needed to permit the individual to*
3 *complete a certificate program or other*
4 *work-related education or training di-*
5 *rected at enabling the individual to fill*
6 *a known job need in a local area, may*
7 *be considered countable hours with re-*
8 *spect to the family of the individual for*
9 *not more than 4 months in any period*
10 *of 24 consecutive months.*

11 *“(B) SCHOOL ATTENDANCE BY TEEN HEAD*
12 *OF HOUSEHOLD.—The work-eligible members of*
13 *a family shall be considered to be engaged in a*
14 *direct work activity for an average of 40 hours*
15 *per week in a month if the family includes an*
16 *individual who is married, or is a single head*
17 *of household, who has not attained 20 years of*
18 *age, and the individual—*

19 *“(i) maintains satisfactory attendance*
20 *at secondary school or the equivalent in the*
21 *month; or*

22 *“(ii) participates in education directly*
23 *related to employment for an average of at*
24 *least 20 hours per week in the month.*

1 “(C) *PARENTAL PARTICIPATION IN*
 2 *SCHOOLS.—Each work-eligible individual in a*
 3 *family shall make verified visits at least twice*
 4 *per school year to the school of each of the indi-*
 5 *vidual’s minor dependent children required to*
 6 *attend school under the law of the State in which*
 7 *the minor children reside, during the period in*
 8 *which the family receives assistance under the*
 9 *program funded under this part. Hours spent in*
 10 *such activity may be specified by the State as*
 11 *countable hours for purposes of paragraph*
 12 *(2)(B).*

13 “(d) *DIRECT WORK ACTIVITY.—In this section, the*
 14 *term ‘direct work activity’ means—*

- 15 “(1) *unsubsidized employment;*
 16 “(2) *subsidized private sector employment;*
 17 “(3) *subsidized public sector employment;*
 18 “(4) *on-the-job training;*
 19 “(5) *supervised work experience; or*
 20 “(6) *supervised community service.”.*

21 “(f) *PENALTIES AGAINST INDIVIDUALS.—Section*
 22 *407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as fol-*
 23 *lows:*

24 “(1) *REDUCTION OR TERMINATION OF ASSIST-*
 25 *ANCE.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *paragraph (2), if an individual in a family re-*
3 *ceiving assistance under a State program funded*
4 *under this part fails to engage in activities re-*
5 *quired in accordance with this section, or other*
6 *activities required by the State under the pro-*
7 *gram, and the family does not otherwise engage*
8 *in activities in accordance with the self-suffi-*
9 *ciency plan established for the family pursuant*
10 *to section 408(b), the State shall—*

11 “(i) *if the failure is partial or persists*
12 *for not more than 1 month—*

13 “(I) *reduce the amount of assist-*
14 *ance otherwise payable to the family*
15 *pro rata (or more, at the option of the*
16 *State) with respect to any period dur-*
17 *ing a month in which the failure oc-*
18 *curs; or*

19 “(II) *terminate all assistance to*
20 *the family, subject to such good cause*
21 *exceptions as the State may establish;*
22 *or*

23 “(ii) *if the failure is total and persists*
24 *for at least 2 consecutive months, terminate*
25 *all cash payments to the family including*

1 *qualified State expenditures (as defined in*
2 *section 409(a)(7)(B)(i)) for at least 1 month*
3 *and thereafter until the State determines*
4 *that the individual has resumed full par-*
5 *ticipation in the activities, subject to such*
6 *good cause exceptions as the State may es-*
7 *tablish.*

8 “(B) *SPECIAL RULE.—*

9 “(i) *IN GENERAL.—In the event of a*
10 *conflict between a requirement of clause*
11 *(i)(II) or (ii) of subparagraph (A) and a re-*
12 *quirement of a State constitution, or of a*
13 *State statute that, before 1966, obligated*
14 *local government to provide assistance to*
15 *needy parents and children, the State con-*
16 *stitutional or statutory requirement shall*
17 *control.*

18 “(ii) *LIMITATION.—Clause (i) of this*
19 *subparagraph shall not apply after the 1-*
20 *year period that begins with the date of the*
21 *enactment of this subparagraph.”.*

22 (g) *CONFORMING AMENDMENTS.—*

23 (1) *Section 407(f) (42 U.S.C. 607(f)) is amended*
24 *in each of paragraphs (1) and (2) by striking “work*

1 *activity described in subsection (d)” and inserting*
 2 *“direct work activity”.*

3 (2) *The heading of section 409(a)(14) (42 U.S.C.*
 4 *609(a)(14)) is amended by inserting “OR REFUSING*
 5 *TO ENGAGE IN ACTIVITIES UNDER A FAMILY SELF-*
 6 *SUFFICIENCY PLAN” after “WORK”.*

7 **SEC. 2013. WORK-RELATED PERFORMANCE IMPROVEMENT.**

8 (a) *STATE PLANS.*—*Section 402(a)(1) (42 U.S.C.*
 9 *602(a)) is amended—*

10 (1) *in subparagraph (A), by adding at the end*
 11 *the following:*

12 *“(vii) The document shall—*

13 *“(I) describe how the State will*
 14 *pursue ending dependence of needy*
 15 *families on government benefits and re-*
 16 *ducing poverty by promoting job prep-*
 17 *aration and work;*

18 *“(II) include specific, numerical,*
 19 *and measurable performance objectives*
 20 *for accomplishing subclause (I); and*

21 *“(III) describe the methodology*
 22 *that the State will use to measure*
 23 *State performance in relation to each*
 24 *such objective.*

1 “(viii) Describe any strategies and
2 programs the State may be undertaking to
3 address—

4 “(I) employment retention and
5 advancement for recipients of assist-
6 ance under the program, including
7 placement into high-demand jobs, and
8 whether the jobs are identified using
9 labor market information;

10 “(II) services for struggling and
11 noncompliant families, and for clients
12 with special problems; and

13 “(III) program integration, in-
14 cluding the extent to which employ-
15 ment and training services under the
16 program are provided through the One-
17 Stop delivery system created under the
18 Workforce Investment Act of 1998, and
19 the extent to which former recipients of
20 such assistance have access to addi-
21 tional core, intensive, or training serv-
22 ices funded through such Act.”; and

23 (2) in subparagraph (B), by striking clause (iv).

1 (b) *REPORT ON ANNUAL PERFORMANCE IMPROVE-*
2 *MENT.*—Section 411 (42 U.S.C. 611) is amended by adding
3 *at the end the following:*

4 “(c) *ANNUAL REPORT ON PERFORMANCE IMPROVE-*
5 *MENT.*—Beginning with fiscal year 2007, not later than
6 *January 1 of each fiscal year, each eligible State shall sub-*
7 *mit to the Secretary a report on achievement and improve-*
8 *ment during the preceding fiscal year under the numerical*
9 *performance goals and measures under the State program*
10 *funded under this part with respect to the matter described*
11 *in section 402(a)(1)(A)(vii).”.*

12 (c) *ANNUAL RANKING OF STATES.*—Section 413(d)(1)
13 (42 U.S.C. 613(d)(1)) is amended by striking “long-term
14 private sector jobs,” and inserting “private sector jobs, the
15 success of the recipients in retaining employment, the abil-

16 *ity of the recipients to increase their wages,”.*
17 (d) *PERFORMANCE IMPROVEMENT.*—Section 413 (42
18 U.S.C. 613) is amended by adding at the end the following:

19 “(k) *PERFORMANCE IMPROVEMENT.*—The Secretary,
20 *in consultation with States, shall develop uniform perform-*
21 *ance measures designed to assess the degree of effectiveness,*
22 *and the degree of improvement, of State programs funded*
23 *under this part in accomplishing the work-related purposes*
24 *of this part.”.*

1 **SEC. 2014. REPORT ON COORDINATION.**

2 *Not later than 6 months after the date of the enactment*
3 *of this Act, the Secretary of Health and Human Services*
4 *and the Secretary of Labor shall jointly submit a report*
5 *to the Congress describing common or conflicting data ele-*
6 *ments, definitions, performance measures, and reporting re-*
7 *quirements in the Workforce Investment Act of 1998 and*
8 *part A of title IV of the Social Security Act, and, to the*
9 *degree each Secretary deems appropriate, at the discretion*
10 *of either Secretary, any other program administered by the*
11 *respective Secretary, to allow greater coordination between*
12 *the welfare and workforce development systems.*

13 **SEC. 2015. FATHERHOOD PROGRAM.**

14 (a) *SHORT TITLE.*—*This section may be cited as the*
15 *“Promotion and Support of Responsible Fatherhood and*
16 *Healthy Marriage Act of 2005”.*

17 (b) *FATHERHOOD PROGRAM.*—

18 (1) *IN GENERAL.*—*Title I of the Personal Re-*
19 *sponsibility and Work Opportunity Reconciliation*
20 *Act of 1996 (Public Law 104–193) is amended by*
21 *adding at the end the following:*

22 **“SEC. 117. FATHERHOOD PROGRAM.**

23 *“(a) IN GENERAL.*—*Title IV (42 U.S.C. 601–679b) is*
24 *amended by inserting after part B the following:*

1 **‘PART C—FATHERHOOD PROGRAM**

2 **‘SEC. 441. FINDINGS AND PURPOSES.**

3 ‘(a) *FINDINGS.*—*The Congress finds that there is sub-*
4 *stantial evidence strongly indicating the urgent need to pro-*
5 *mote and support involved, committed, and responsible fa-*
6 *therhood, and to encourage and support healthy marriages*
7 *between parents raising children, including data dem-*
8 *onstrating the following:*

9 ‘(1) *In approximately 84 percent of cases where*
10 *a parent is absent, that parent is the father.*

11 ‘(2) *If current trends continue, half of all chil-*
12 *dren born today will live apart from one of their par-*
13 *ents, usually their father, at some point before they*
14 *turn 18.*

15 ‘(3) *Where families (whether intact or with a*
16 *parent absent) are living in poverty, a significant*
17 *factor is the father’s lack of job skills.*

18 ‘(4) *Committed and responsible fathering during*
19 *infancy and early childhood contributes to the devel-*
20 *opment of emotional security, curiosity, and math*
21 *and verbal skills.*

22 ‘(5) *An estimated 19,400,000 children (27 per-*
23 *cent) live apart from their biological father.*

24 ‘(6) *Forty percent of children under age 18 not*
25 *living with their biological father had not seen their*

1 *father even once in the last 12 months, according to*
2 *national survey data.*

3 *‘(b) PURPOSES.—The purposes of this part are:*

4 *‘(1) To provide for projects and activities by*
5 *public entities and by nonprofit community entities,*
6 *including religious organizations, designed to test*
7 *promising approaches to accomplishing the following*
8 *objectives:*

9 *‘(A) Promoting responsible, caring, and ef-*
10 *fective parenting through counseling, mentoring,*
11 *and parenting education, dissemination of edu-*
12 *cational materials and information on parenting*
13 *skills, encouragement of positive father involve-*
14 *ment, including the positive involvement of non-*
15 *resident fathers, and other methods.*

16 *‘(B) Enhancing the abilities and commit-*
17 *ment of unemployed or low-income fathers to*
18 *provide material support for their families and*
19 *to avoid or leave welfare programs by assisting*
20 *them to take full advantage of education, job*
21 *training, and job search programs, to improve*
22 *work habits and work skills, to secure career ad-*
23 *vancement by activities such as outreach and in-*
24 *formation dissemination, coordination, as appro-*
25 *priate, with employment services and job train-*

1 *ing programs, including the One-Stop delivery*
2 *system established under title I of the Workforce*
3 *Investment Act of 1998, encouragement and sup-*
4 *port of timely payment of current child support*
5 *and regular payment toward past due child sup-*
6 *port obligations in appropriate cases, and other*
7 *methods.*

8 *‘(C) Improving fathers’ ability to effectively*
9 *manage family business affairs by means such as*
10 *education, counseling, and mentoring in matters*
11 *including household management, budgeting,*
12 *banking, and handling of financial transactions,*
13 *time management, and home maintenance.*

14 *‘(D) Encouraging and supporting healthy*
15 *marriages and married fatherhood through such*
16 *activities as premarital education, including the*
17 *use of premarital inventories, marriage prepara-*
18 *tion programs, skills-based marriage education*
19 *programs, marital therapy, couples counseling,*
20 *divorce education and reduction programs, di-*
21 *vorce mediation and counseling, relationship*
22 *skills enhancement programs, including those de-*
23 *signed to reduce child abuse and domestic vio-*
24 *lence, and dissemination of information about*

1 *the benefits of marriage for both parents and*
2 *children.*

3 ‘(2) *Through the projects and activities described*
4 *in paragraph (1), to improve outcomes for children*
5 *with respect to measures such as increased family in-*
6 *come and economic security, improved school per-*
7 *formance, better health, improved emotional and be-*
8 *havioral stability and social adjustment, and reduced*
9 *risk of delinquency, crime, substance abuse, child*
10 *abuse and neglect, teen sexual activity, and teen sui-*
11 *cide.*

12 ‘(3) *To evaluate the effectiveness of various ap-*
13 *proaches and to disseminate findings concerning out-*
14 *comes and other information in order to encourage*
15 *and facilitate the replication of effective approaches to*
16 *accomplishing these objectives.*

17 **‘SEC. 442. DEFINITIONS.**

18 ‘*In this part, the terms “Indian tribe” and “tribal or-*
19 *ganization” have the meanings given them in subsections*
20 *(e) and (l), respectively, of section 4 of the Indian Self-De-*
21 *termination and Education Assistance Act.*

22 **‘SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.**

23 ‘(a) *IN GENERAL.—The Secretary may make grants*
24 *for fiscal years 2006 through 2010 to public and nonprofit*
25 *community entities, including religious organizations, and*

1 *to Indian tribes and tribal organizations, for demonstration*
2 *service projects and activities designed to test the effective-*
3 *ness of various approaches to accomplish the objectives spec-*
4 *ified in section 441(b)(1).*

5 ‘(b) *ELIGIBILITY CRITERIA FOR FULL SERVICE*
6 *GRANTS.—In order to be eligible for a grant under this sec-*
7 *tion, except as specified in subsection (c), an entity shall*
8 *submit an application to the Secretary containing the fol-*
9 *lowing:*

10 ‘(1) *PROJECT DESCRIPTION.—A statement in-*
11 *cluding—*

12 ‘(A) *a description of the project and how it*
13 *will be carried out, including the geographical*
14 *area to be covered and the number and charac-*
15 *teristics of clients to be served, and how it will*
16 *address each of the 4 objectives specified in sec-*
17 *tion 441(b)(1); and*

18 ‘(B) *a description of the methods to be used*
19 *by the entity or its contractor to assess the extent*
20 *to which the project was successful in accom-*
21 *plishing its specific objectives and the general ob-*
22 *jectives specified in section 441(b)(1).*

23 ‘(2) *EXPERIENCE AND QUALIFICATIONS.—A dem-*
24 *onstration of ability to carry out the project, by*
25 *means such as demonstration of experience in success-*

1 *fully carrying out projects of similar design and*
2 *scope, and such other information as the Secretary*
3 *may find necessary to demonstrate the entity's capac-*
4 *ity to carry out the project, including the entity's*
5 *ability to provide the non-Federal share of project re-*
6 *sources.*

7 ‘(3) *ADDRESSING CHILD ABUSE AND NEGLECT*
8 *AND DOMESTIC VIOLENCE.—A description of how the*
9 *entity will assess for the presence of, and intervene to*
10 *resolve, domestic violence and child abuse and neglect,*
11 *including how the entity will coordinate with State*
12 *and local child protective service and domestic vio-*
13 *lence programs.*

14 ‘(4) *ADDRESSING CONCERNS RELATING TO SUB-*
15 *STANCE ABUSE AND SEXUAL ACTIVITY.—A commit-*
16 *ment to make available to each individual partici-*
17 *peating in the project education about alcohol, tobacco,*
18 *and other drugs, and about the health risks associated*
19 *with abusing such substances, and information about*
20 *diseases and conditions transmitted through substance*
21 *abuse and sexual contact, including HIV/AIDS, and*
22 *to coordinate with providers of services addressing*
23 *such problems, as appropriate.*

24 ‘(5) *COORDINATION WITH SPECIFIED PRO-*
25 *GRAMS.—An undertaking to coordinate, as appro-*

1 *appropriate, with State and local entities responsible for*
2 *the programs under parts A, B, and D of this title,*
3 *including programs under title I of the Workforce In-*
4 *vestment Act of 1998 (including the One-Stop delivery*
5 *system), and such other programs as the Secretary*
6 *may require.*

7 ‘(6) *RECORDS, REPORTS, AND AUDITS.—An*
8 *agreement to maintain such records, make such re-*
9 *ports, and cooperate with such reviews or audits as*
10 *the Secretary may find necessary for purposes of over-*
11 *sight of project activities and expenditures.*

12 ‘(7) *SELF-INITIATED EVALUATION.—If the entity*
13 *elects to contract for independent evaluation of the*
14 *project (part or all of the cost of which may be paid*
15 *for using grant funds), a commitment to submit to*
16 *the Secretary a copy of the evaluation report within*
17 *30 days after completion of the report and not more*
18 *than 1 year after completion of the project.*

19 ‘(8) *COOPERATION WITH SECRETARY’S OVER-*
20 *SIGHT AND EVALUATION.—An agreement to cooperate*
21 *with the Secretary’s evaluation of projects assisted*
22 *under this section, by means including random as-*
23 *signment of clients to service recipient and control*
24 *groups, if determined by the Secretary to be appro-*
25 *priate, and affording the Secretary access to the*

1 *project and to project-related records and documents,*
2 *staff, and clients.*

3 ‘(c) *ELIGIBILITY CRITERIA FOR LIMITED PURPOSE*
4 *GRANTS.*—*In order to be eligible for a grant under this sec-*
5 *tion in an amount under \$25,000 per fiscal year, an entity*
6 *shall submit an application to the Secretary containing the*
7 *following:*

8 ‘(1) *PROJECT DESCRIPTION.*—*A description of*
9 *the project and how it will be carried out, including*
10 *the number and characteristics of clients to be served,*
11 *the proposed duration of the project, and how it will*
12 *address at least 1 of the 4 objectives specified in sec-*
13 *tion 441(b)(1).*

14 ‘(2) *QUALIFICATIONS.*—*Such information as the*
15 *Secretary may require as to the capacity of the entity*
16 *to carry out the project, including any previous expe-*
17 *rience with similar activities.*

18 ‘(3) *COORDINATION WITH RELATED PRO-*
19 *GRAMS.*—*As required by the Secretary in appropriate*
20 *cases, an undertaking to coordinate and cooperate*
21 *with State and local entities responsible for specific*
22 *programs relating to the objectives of the project in-*
23 *cluding, as appropriate, jobs programs and programs*
24 *servicing children and families.*

1 ‘(4) *RECORDS, REPORTS, AND AUDITS.*—An
 2 *agreement to maintain such records, make such re-*
 3 *ports, and cooperate with such reviews or audits as*
 4 *the Secretary may find necessary for purposes of over-*
 5 *sight of project activities and expenditures.*

6 ‘(5) *COOPERATION WITH SECRETARY’S OVER-*
 7 *SIGHT AND EVALUATION.*—An agreement to cooperate
 8 *with the Secretary’s evaluation of projects assisted*
 9 *under this section, by means including affording the*
 10 *Secretary access to the project and to project-related*
 11 *records and documents, staff, and clients.*

12 ‘(d) *CONSIDERATIONS IN AWARDING GRANTS.*—

13 ‘(1) *DIVERSITY OF PROJECTS.*—In awarding
 14 *grants under this section, the Secretary shall seek to*
 15 *achieve a balance among entities of differing sizes, en-*
 16 *tities in differing geographic areas, entities in urban*
 17 *and in rural areas, and entities employing differing*
 18 *methods of achieving the purposes of this section, in-*
 19 *cluding working with the State agency responsible for*
 20 *the administration of part D to help fathers satisfy*
 21 *child support arrearage obligations.*

22 ‘(2) *PREFERENCE FOR PROJECTS SERVING LOW-*
 23 *INCOME FATHERS.*—In awarding grants under this
 24 *section, the Secretary may give preference to applica-*

1 *tions for projects in which a majority of the clients*
 2 *to be served are low-income fathers.*

3 *‘(e) FEDERAL SHARE.—*

4 *‘(1) IN GENERAL.—Grants for a project under*
 5 *this section for a fiscal year shall be available for a*
 6 *share of the cost of such project in such fiscal year*
 7 *equal to—*

8 *‘(A) up to 80 percent (or up to 90 percent,*
 9 *if the entity demonstrates to the Secretary’s sat-*
 10 *isfaction circumstances limiting the entity’s abil-*
 11 *ity to secure non-Federal resources) in the case*
 12 *of a project under subsection (b); and*

13 *‘(B) up to 100 percent, in the case of a*
 14 *project under subsection (c).*

15 *‘(2) NON-FEDERAL SHARE.—The non-Federal*
 16 *share may be in cash or in kind. In determining the*
 17 *amount of the non-Federal share, the Secretary may*
 18 *attribute fair market value to goods, services, and fa-*
 19 *cilities contributed from non-Federal sources.*

20 **‘SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**
 21 **PROJECTS.**

22 *‘(a) IN GENERAL.—The Secretary may make grants*
 23 *under this section for fiscal years 2006 through 2010 to eli-*
 24 *gible entities (as specified in subsection (b)) for 2 multicity,*
 25 *multistate projects demonstrating approaches to achieving*

1 *the objectives specified in section 441(b)(1). One of the*
2 *projects shall test the use of married couples to deliver pro-*
3 *gram services.*

4 ‘(b) *ELIGIBLE ENTITIES.*—*An entity eligible for a*
5 *grant under this section must be a national nonprofit fa-*
6 *therhood promotion organization that meets the following*
7 *requirements:*

8 ‘(1) *EXPERIENCE WITH FATHERHOOD PRO-*
9 *GRAMS.*—*The organization must have substantial ex-*
10 *perience in designing and successfully conducting*
11 *programs that meet the purposes described in section*
12 *441.*

13 ‘(2) *EXPERIENCE WITH MULTICITY, MULTISTATE*
14 *PROGRAMS AND GOVERNMENT COORDINATION.*—*The*
15 *organization must have experience in simultaneously*
16 *conducting such programs in more than 1 major met-*
17 *ropolitan area in more than 1 State and in coordi-*
18 *nating such programs, where appropriate, with State*
19 *and local government agencies and private, nonprofit*
20 *agencies (including community-based and religious*
21 *organizations), including State or local agencies re-*
22 *sponsible for child support enforcement and workforce*
23 *development.*

1 ‘(c) *APPLICATION REQUIREMENTS.*—*In order to be eli-*
2 *gible for a grant under this section, an entity must submit*
3 *to the Secretary an application that includes the following:*

4 ‘(1) *QUALIFICATIONS.*—

5 ‘(A) *ELIGIBLE ENTITY.*—*A demonstration*
6 *that the entity meets the requirements of sub-*
7 *section (b).*

8 ‘(B) *OTHER.*—*Such other information as*
9 *the Secretary may find necessary to demonstrate*
10 *the entity’s capacity to carry out the project, in-*
11 *cluding the entity’s ability to provide the non-*
12 *Federal share of project resources.*

13 ‘(2) *PROJECT DESCRIPTION.*—*A description of*
14 *and commitments concerning the project design, in-*
15 *cluding the following:*

16 ‘(A) *IN GENERAL.*—*A detailed description of*
17 *the proposed project design and how it will be*
18 *carried out, which shall—*

19 ‘(i) *provide for the project to be con-*
20 *ducted in at least 3 major metropolitan*
21 *areas;*

22 ‘(ii) *state how it will address each of*
23 *the 4 objectives specified in section*
24 *441(b)(1);*

1 ‘(iii) demonstrate that there is a suffi-
2 cient number of potential clients to allow
3 for the random selection of individuals to
4 participate in the project and for compari-
5 sons with appropriate control groups com-
6 posed of individuals who have not partici-
7 pated in such projects; and

8 ‘(iv) demonstrate that the project is de-
9 signed to direct a majority of project re-
10 sources to activities serving low-income fa-
11 thers (but the project need not make services
12 available on a means-tested basis).

13 ‘(B) OVERSIGHT, EVALUATION, AND AD-
14 JUSTMENT COMPONENT.—An agreement that the
15 entity—

16 ‘(i) in consultation with the evaluator
17 selected pursuant to section 446, and as re-
18 quired by the Secretary, will modify the
19 project design, initially and (if necessary)
20 subsequently throughout the duration of the
21 project, in order to facilitate ongoing and
22 final oversight and evaluation of project op-
23 eration and outcomes (by means including,
24 to the maximum extent feasible, random as-
25 signment of clients to service recipient and

1 control groups), and to provide for mid-
2 course adjustments in project design indi-
3 cated by interim evaluations;

4 (ii) will submit to the Secretary re-
5 vised descriptions of the project design as
6 modified in accordance with clause (i); and

7 (iii) will cooperate fully with the Sec-
8 retary's ongoing oversight and ongoing and
9 final evaluation of the project, by means in-
10 cluding affording the Secretary access to the
11 project and to project-related records and
12 documents, staff, and clients.

13 (3) ADDRESSING CHILD ABUSE AND NEGLECT
14 AND DOMESTIC VIOLENCE.—A description of how the
15 entity will assess for the presence of, and intervene to
16 resolve, domestic violence and child abuse and neglect,
17 including how the entity will coordinate with State
18 and local child protective service and domestic vio-
19 lence programs.

20 (4) ADDRESSING CONCERNS RELATING TO SUB-
21 STANCE ABUSE AND SEXUAL ACTIVITY.—A commit-
22 ment to make available to each individual partici-
23 pating in the project education about alcohol, tobacco,
24 and other drugs, and about the health risks associated
25 with abusing such substances, and information about

1 *diseases and conditions transmitted through substance*
2 *abuse and sexual contact, including HIV/AIDS, and*
3 *to coordinate with providers of services addressing*
4 *such problems, as appropriate.*

5 *‘(5) COORDINATION WITH SPECIFIED PRO-*
6 *GRAMS.—An undertaking to coordinate, as appro-*
7 *priate, with State and local entities responsible for*
8 *the programs funded under parts A, B, and D of this*
9 *title, programs under title I of the Workforce Invest-*
10 *ment Act of 1998 (including the One-Stop delivery*
11 *system), and such other programs as the Secretary*
12 *may require.*

13 *‘(6) RECORDS, REPORTS, AND AUDITS.—An*
14 *agreement to maintain such records, make such re-*
15 *ports, and cooperate with such reviews or audits (in*
16 *addition to those required under the preceding provi-*
17 *sions of paragraph (2)) as the Secretary may find*
18 *necessary for purposes of oversight of project activities*
19 *and expenditures.*

20 *‘(d) FEDERAL SHARE.—*

21 *‘(1) IN GENERAL.—Grants for a project under*
22 *this section for a fiscal year shall be available for up*
23 *to 80 percent of the cost of such project in such fiscal*
24 *year.*

1 ‘(2) *NON-FEDERAL SHARE.*—*The non-Federal*
2 *share may be in cash or in kind. In determining the*
3 *amount of the non-Federal share, the Secretary may*
4 *attribute fair market value to goods, services, and fa-*
5 *cilities contributed from non-Federal sources.*

6 **‘SEC. 445. ECONOMIC INCENTIVE DEMONSTRATION**
7 **PROJECTS.**

8 ‘(a) *IN GENERAL.*—*The Secretary may make grants*
9 *under this section for fiscal years 2006 through 2010 to eli-*
10 *gible entities (as specified in subsection (b)) for two to five*
11 *projects demonstrating approaches to achieving the objec-*
12 *tives specified in section 441(b)(1). Drawing on the success*
13 *of economic-incentive programs in demonstrating strong*
14 *employment effects for low-income mothers, projects shall*
15 *test the use of economic incentives combined with a com-*
16 *prehensive approach to addressing employment barriers to*
17 *encourage non-custodial parents to enter the workforce and*
18 *to contribute financially and emotionally to their children.*
19 *The Secretary may make grants based on the level of inno-*
20 *vation, comprehensiveness, and likelihood to achieve the*
21 *goal of increased employment by the applicant.*

22 ‘(b) *ELIGIBLE ENTITIES.*—*An entity eligible for a*
23 *grant under this section must be a national nonprofit fa-*
24 *therhood promotion organization that meets the following*
25 *requirements:*

1 ‘(1) *EXPERIENCE WITH FATHERHOOD PRO-*
2 *GRAMS.—The organization must have substantial ex-*
3 *perience in designing and successfully conducting*
4 *programs that meet the purposes described in section*
5 *441.*

6 ‘(2) *EXPERIENCE ADDRESSING MULTIPLE BAR-*
7 *RIERS TO EMPLOYMENT.—The organization must*
8 *have experience in conducting such programs and in*
9 *coordinating such programs, where appropriate, with*
10 *State and local government agencies and private,*
11 *nonprofit agencies (including community-based and*
12 *religious organizations), including State or local*
13 *agencies responsible for child support enforcement and*
14 *workforce development.*

15 ‘(3) *NEGOTIATED AGREEMENTS WITH STATE AND*
16 *LOCAL AGENCIES FOR APPROPRIATE POLICY CHANGES*
17 *TO ADDRESS BARRIERS TO EMPLOYMENT.—The orga-*
18 *nization must have agreements in place with State*
19 *and local government agencies, including State or*
20 *local agencies responsible for child support enforce-*
21 *ment and workforce development, to incorporate ap-*
22 *propriate policy changes proposed to address barriers*
23 *to employment.*

1 ‘(c) *APPLICATION REQUIREMENTS.*—*In order to be eli-*
2 *gible for a grant under this section, an entity must submit*
3 *to the Secretary an application that includes the following:*

4 ‘(1) *QUALIFICATIONS.*—

5 ‘(A) *ELIGIBLE ENTITY.*—*A demonstration*
6 *that the entity meets the requirements of sub-*
7 *section (b).*

8 ‘(B) *OTHER.*—*Such other information as*
9 *the Secretary may find necessary to demonstrate*
10 *the entity’s capacity to carry out the project, in-*
11 *cluding the entity’s ability to provide the non-*
12 *Federal share of project resources.*

13 ‘(2) *PROJECT DESCRIPTION.*—*A description of*
14 *and commitments concerning the project design, in-*
15 *cluding the following:*

16 ‘(A) *IN GENERAL.*—*A detailed description of*
17 *the proposed project design and how the project*
18 *will be carried out, which shall—*

19 ‘(i) *state how the project will address*
20 *each of the 4 objectives specified in section*
21 *441(b)(1);*

22 ‘(ii) *state how the project will address*
23 *employment barriers across programs (such*
24 *as child support, criminal justice, and*
25 *workforce development programs) using both*

1 *sanctions and compliance along with mone-*
2 *tary incentives for obtaining employment,*
3 *with earning subsidies contingent upon*
4 *work and child support payment;*

5 *‘(iii) demonstrate that there is a suffi-*
6 *cient number of potential clients to allow*
7 *for the random selection of individuals to*
8 *participate in the project and for compari-*
9 *sons with appropriate control groups com-*
10 *posed of individuals who have not partici-*
11 *pated in such projects; and*

12 *‘(iv) demonstrate that the project is de-*
13 *signed to direct a majority of project re-*
14 *sources to activities serving low-income fa-*
15 *thers (but the project need not make services*
16 *available on a means-tested basis).*

17 *‘(B) OVERSIGHT, EVALUATION, AND AD-*
18 *JUSTMENT COMPONENT.—An agreement that the*
19 *entity—*

20 *‘(i) in consultation with the evaluator*
21 *selected pursuant to section 446, and as re-*
22 *quired by the Secretary, will modify the*
23 *project design, initially and (if necessary)*
24 *subsequently throughout the duration of the*
25 *project, in order to facilitate ongoing and*

1 *final oversight and evaluation of project op-*
2 *eration and outcomes (by means including,*
3 *to the maximum extent feasible, random as-*
4 *signment of clients to service recipient and*
5 *control groups), and to provide for mid-*
6 *course adjustments in project design indi-*
7 *cated by interim evaluations;*

8 *‘(ii) will submit to the Secretary re-*
9 *vised descriptions of the project design as*
10 *modified in accordance with clause (i); and*

11 *‘(iii) will cooperate fully with the Sec-*
12 *retary’s ongoing oversight and ongoing and*
13 *final evaluation of the project, by means in-*
14 *cluding affording the Secretary access to the*
15 *project and to project-related records and*
16 *documents, staff, and clients.*

17 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
18 AND DOMESTIC VIOLENCE.—*A description of how the*
19 *entity will assess for the presence of, and intervene to*
20 *resolve, domestic violence and child abuse and neglect,*
21 *including how the entity will coordinate with State*
22 *and local child protective service and domestic vio-*
23 *lence programs.*

24 ‘(4) ADDRESSING CONCERNS RELATING TO SUB-
25 STANCE ABUSE AND SEXUAL ACTIVITY.—*A commit-*

1 *ment to make available to each individual partici-*
2 *pating in the project education about alcohol, tobacco,*
3 *and other drugs, and about the health risks associated*
4 *with abusing such substances, and information about*
5 *diseases and conditions transmitted through substance*
6 *abuse and sexual contact, including HIV/AIDS, and*
7 *to coordinate with providers of services addressing*
8 *such problems, as appropriate.*

9 *‘(5) COORDINATION WITH SPECIFIED PRO-*
10 *GRAMS.—An undertaking to coordinate, as appro-*
11 *priate, with State and local entities responsible for*
12 *the programs funded under parts A, B, and D of this*
13 *title, programs under title I of the Workforce Invest-*
14 *ment Act of 1998 (including the One-Stop delivery*
15 *system), and such other programs as the Secretary*
16 *may require.*

17 *‘(6) RECORDS, REPORTS, AND AUDITS.—An*
18 *agreement to maintain such records, make such re-*
19 *ports, and cooperate with such reviews or audits (in*
20 *addition to those required under the preceding provi-*
21 *sions of paragraph (2)) as the Secretary may find*
22 *necessary for purposes of oversight of project activities*
23 *and expenditures.*

24 *‘(d) FEDERAL SHARE.—*

1 ‘(1) *IN GENERAL.*—*Grants for a project under*
2 *this section for a fiscal year shall be available for up*
3 *to 80 percent of the cost of such project in such fiscal*
4 *year.*

5 ‘(2) *NON-FEDERAL SHARE.*—*The non-Federal*
6 *share may be in cash or in kind. In determining the*
7 *amount of the non-Federal share, the Secretary may*
8 *attribute fair market value to goods, services, and fa-*
9 *cilities contributed from non-Federal sources.*

10 **‘SEC. 446. EVALUATION.**

11 ‘(a) *IN GENERAL.*—*The Secretary, directly or by con-*
12 *tract or cooperative agreement, shall evaluate the effective-*
13 *ness of service projects funded under sections 443 and 444*
14 *from the standpoint of the purposes specified in section*
15 *441(b)(1).*

16 ‘(b) *EVALUATION METHODOLOGY.*—*Evaluations under*
17 *this section shall—*

18 ‘(1) *include, to the maximum extent feasible,*
19 *random assignment of clients to service delivery and*
20 *control groups and other appropriate comparisons of*
21 *groups of individuals receiving and not receiving*
22 *services;*

23 ‘(2) *describe and measure the effectiveness of the*
24 *projects in achieving their specific project goals; and*

1 ‘(3) describe and assess, as appropriate, the im-
2 *act of such projects on marriage, parenting, domestic*
3 *violence, child abuse and neglect, money management,*
4 *employment and earnings, payment of child support,*
5 *and child well-being, health, and education.*

6 ‘(c) *EVALUATION REPORTS.*—*The Secretary shall pub-*
7 *lish the following reports on the results of the evaluation:*

8 ‘(1) *An implementation evaluation report cov-*
9 *ering the first 24 months of the activities under this*
10 *part to be completed by 36 months after initiation of*
11 *such activities.*

12 ‘(2) *A final report on the evaluation to be com-*
13 *pleted by September 30, 2013.*

14 ‘**SEC. 447. PROJECTS OF NATIONAL SIGNIFICANCE.**

15 ‘*The Secretary is authorized, by grant, contract, or co-*
16 *operative agreement, to carry out projects and activities of*
17 *national significance relating to fatherhood promotion, in-*
18 *cluding—*

19 ‘(1) *COLLECTION AND DISSEMINATION OF INFOR-*
20 *MATION.*—*Assisting States, communities, and private*
21 *entities, including religious organizations, in efforts*
22 *to promote and support marriage and responsible fa-*
23 *therhood by collecting, evaluating, developing, and*
24 *making available (through the Internet and by other*
25 *means) to all interested parties information regarding*

1 *approaches to accomplishing the objectives specified in*
2 *section 441(b)(1).*

3 ‘(2) *MEDIA CAMPAIGN.—Developing, promoting,*
4 *and distributing to interested States, local govern-*
5 *ments, public agencies, and private nonprofit organi-*
6 *zations, including charitable and religious organiza-*
7 *tions, a media campaign that promotes and encour-*
8 *ages involved, committed, and responsible fatherhood*
9 *and married fatherhood.*

10 ‘(3) *TECHNICAL ASSISTANCE.—Providing tech-*
11 *nical assistance, including consultation and training,*
12 *to public and private entities, including community*
13 *organizations and faith-based organizations, in the*
14 *implementation of local fatherhood promotion pro-*
15 *grams.*

16 ‘(4) *RESEARCH.—Conducting research related to*
17 *the purposes of this part.*

18 **‘SEC. 448. NONDISCRIMINATION.**

19 *‘The projects and activities assisted under this part*
20 *shall be available on the same basis to all fathers and ex-*
21 *pectant fathers able to benefit from such projects and activi-*
22 *ties, including married and unmarried fathers and custo-*
23 *dial and noncustodial fathers, with particular attention to*
24 *low-income fathers, and to mothers and expectant mothers*
25 *on the same basis as to fathers.*

1 **‘SEC. 449. AUTHORIZATION OF APPROPRIATIONS; RESERVA-**
2 **TION FOR CERTAIN PURPOSE.**

3 ‘(a) *AUTHORIZATION.*—*There are authorized to be ap-*
4 *propriated \$20,000,000 for each of fiscal years 2006 through*
5 *2010 to carry out the provisions of this part.*

6 ‘(b) *RESERVATION.*—*Of the amount appropriated*
7 *under this section for each fiscal year, not more than 35*
8 *percent shall be available for the costs of the multicounty,*
9 *multicounty, multistate demonstration projects under sec-*
10 *tion 444, the economic incentives demonstration projects*
11 *under section 445, evaluations under section 446, and*
12 *projects of national significance under section 447, with not*
13 *less than \$5,000,000 allocated to the economic incentives*
14 *demonstration project under section 445.’.*

15 “(b) *INAPPLICABILITY OF EFFECTIVE DATE PROVI-*
16 *SIONS.*—*Section 116 shall not apply to the amendment*
17 *made by subsection (a) of this section.”.*

18 (2) *CLERICAL AMENDMENT.*—*Section 2 of such*
19 *Act is amended in the table of contents by inserting*
20 *after the item relating to section 116 the following*
21 *new item:*

“Sec. 117. *Fatherhood program.*”.

1 **SEC. 2016. STATE OPTION TO MAKE TANF PROGRAMS MAN-**
 2 **DATORY PARTNERS WITH ONE-STOP EMPLOY-**
 3 **MENT TRAINING CENTERS.**

4 *Section 408 (42 U.S.C. 608) is amended by adding*
 5 *at the end the following:*

6 *“(h) STATE OPTION TO MAKE TANF PROGRAMS MAN-*
 7 *DATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAIN-*
 8 *ING CENTERS.—For purposes of section 121(b) of the Work-*
 9 *force Investment Act of 1998, a State program funded under*
 10 *part A of title IV of the Social Security Act shall be consid-*
 11 *ered a program referred to in paragraph (1)(B) of such sec-*
 12 *tion, unless, after the date of the enactment of this sub-*
 13 *section, the Governor of the State notifies the Secretaries*
 14 *of Health and Human Services and Labor in writing of*
 15 *the decision of the Governor not to make the State program*
 16 *a mandatory partner.”.*

17 **SEC. 2017. SENSE OF THE CONGRESS.**

18 *It is the sense of the Congress that a State welfare-*
 19 *to-work program should include a mentoring program.*

20 **SEC. 2018. PROHIBITION ON OFFSHORING.**

21 *Section 408(a) (42 U.S.C. 608(a)) is amended by add-*
 22 *ing at the end the following:*

23 *“(12) PROHIBITION ON OFFSHORING.—A State*
 24 *to which a grant is made under section 403 shall not*
 25 *use any part of the grant—*

1 “(A) to enter into a contract with an entity
2 that, directly or through a subcontractor, pro-
3 vides any service, activity or function described
4 under this part at a location outside the United
5 States; or

6 “(B) to reduce employment in the United
7 States through use of 1 or more employees out-
8 side the United States.”.

9 **PART 3—CHILD CARE**

10 **SEC. 2021. SHORT TITLE.**

11 This part may be cited as the “Caring for Children
12 Act of 2005”.

13 **SEC. 2022. GOALS.**

14 (a) **GOALS.**—Section 658A(b) of the Child Care and
15 Development Block Grant Act of 1990 (42 U.S.C. 9801 note)
16 is amended—

17 (1) in paragraph (3) by striking “encourage”
18 and inserting “assist”,

19 (2) by amending paragraph (4) to read as fol-
20 lows:

21 “(4) to assist States to provide child care to low-
22 income parents;”,

23 (3) by redesignating paragraph (5) as para-
24 graph (7), and

1 (4) *by inserting after paragraph (4) the fol-*
 2 *lowing:*

3 “*(5) to encourage States to improve the quality*
 4 *of child care available to families;*

5 “*(6) to promote school readiness by encouraging*
 6 *the exposure of young children in child care to nur-*
 7 *turing environments and developmentally-appropriate*
 8 *activities, including activities to foster early cognitive*
 9 *and literacy development; and”.*

10 (b) *CONFORMING AMENDMENT.—Section*
 11 *658E(c)(3)(B) of the Child Care and Development Block*
 12 *Grant Act of 1990 (42 U.S.C. 9858c(c)(3)(B)) is amended*
 13 *by striking “through (5)” and inserting “through (7)”.*

14 **SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.**

15 *Section 658B of the Child Care and Development Block*
 16 *Grant Act of 1990 (42 U.S.C. 9858) is amended—*

17 (1) *by striking “is” and inserting “are”, and*

18 (2) *by striking “\$1,000,000,000 for each of the*
 19 *fiscal years 1996 through 2002” and inserting*
 20 *“\$2,300,000,000 for fiscal year 2006, \$2,500,000,000*
 21 *for fiscal year 2007, \$2,700,000,000 for fiscal year*
 22 *2008, \$2,900,000,000 for fiscal year 2009, and*
 23 *\$3,100,000,000 for fiscal year 2010”.*

1 **SEC. 2024. APPLICATION AND PLAN.**

2 *Section 658E(c)(2) of the Child Care and Development*
3 *Block Grant Act of 1990 (42 U.S.C. 9858C(c)(2)) is amend-*
4 *ed—*

5 *(1) by amending subparagraph (D) to read as*
6 *follows:*

7 *“(D) CONSUMER AND CHILD CARE PRO-*
8 *VIDER EDUCATION INFORMATION.—*

9 *“(i) CERTIFICATION.—Certify that the*
10 *State will collect and disseminate, through*
11 *resource and referral services and other*
12 *means as determined by the State, to par-*
13 *ents of eligible children, child care pro-*
14 *viders, and the general public, information*
15 *regarding—*

16 *“(I) the promotion of informed*
17 *child care choices, including informa-*
18 *tion about the quality and availability*
19 *of child care services;*

20 *“(II) research and best practices*
21 *on children’s development, including*
22 *early cognitive development;*

23 *“(III) the availability of assist-*
24 *ance to obtain child care services; and*

25 *“(IV) other programs for which*
26 *families that receive child care services*

1 for which financial assistance is pro-
2 vided under this subchapter may be el-
3 igible, including the food stamp pro-
4 gram, the WIC program under section
5 17 of the Child Nutrition Act of 1966,
6 the child and adult care food program
7 under section 17 of the Richard B.
8 Russell National School Lunch Act,
9 Head Start programs, Early Head
10 Start programs, services and activities
11 under section 619 and part C of the
12 Individuals with Disabilities Edu-
13 cation Act, and the medicaid and
14 SCHIP programs under titles XIX and
15 XXI of the Social Security Act.

16 “(ii) *INFORMATION.*—Information pro-
17 vided to parents shall be in plain language
18 and, to the extent practicable, be in a lan-
19 guage that such parents can understand.”,
20 and

21 (2) by inserting after subparagraph (H) the fol-
22 lowing:

23 “(I) *COORDINATION WITH OTHER EARLY*
24 *CHILD CARE SERVICES AND EARLY CHILDHOOD*
25 *EDUCATION PROGRAMS.*—Demonstrate how the

1 *State is coordinating child care services provided*
2 *under this subchapter with Head Start pro-*
3 *grams, Early Head Start programs, Early*
4 *Reading First, Even Start, Ready-To-Learn Tel-*
5 *evision, services and activities under section 619*
6 *and part C of the Individuals with Disabilities*
7 *Education Act, State pre-kindergarten programs,*
8 *and other early childhood education programs to*
9 *expand accessibility to and continuity of care*
10 *and early education consistent with the goals of*
11 *this Act, without displacing services provided by*
12 *the current early care and education delivery*
13 *system.*

14 “(J) *PUBLIC-PRIVATE PARTNERSHIPS.—*
15 *Demonstrate how the State encourages partner-*
16 *ships with private and other public entities to le-*
17 *verage existing service delivery systems of early*
18 *childhood education and increase the supply and*
19 *quality of child care services.*

20 “(K) *CHILD CARE SERVICE QUALITY.—*

21 “(i) *CERTIFICATION.—For each fiscal*
22 *year after fiscal year 2006, certify that dur-*
23 *ing the then preceding fiscal year the State*
24 *was in compliance with section 658G and*
25 *describe how funds were used to comply*

1 *with such section during such preceding fis-*
2 *cal year.*

3 “(ii) *STRATEGY.—For each fiscal year*
4 *after fiscal year 2006, contain an outline of*
5 *the strategy the State will implement dur-*
6 *ing such fiscal year for which the State*
7 *plan is submitted, to address the quality of*
8 *child care services in the State available*
9 *from eligible child care providers, and in-*
10 *clude in such strategy—*

11 “(I) *a statement specifying how*
12 *the State will address the activities de-*
13 *scribed in paragraphs (1), (2), and (3)*
14 *of section 658G;*

15 “(II) *a description of measures for*
16 *evaluating the quality improvements*
17 *generated by the activities listed in*
18 *each of such paragraphs that the State*
19 *will use to evaluate its progress in im-*
20 *proving the quality of such child care*
21 *services;*

22 “(III) *a list of State-developed*
23 *child care service quality targets for*
24 *such fiscal year quantified on the basis*
25 *of such measures; and*

1 “(IV) for each fiscal year after fis-
 2 cal year 2006, a report on the progress
 3 made to achieve such targets during
 4 the then preceding fiscal year.

5 “(iii) *RULE OF CONSTRUCTION.*—*Noth-*
 6 *ing in this subparagraph shall be construed*
 7 *to require that the State apply measures for*
 8 *evaluating quality to specific types of child*
 9 *care providers.*

10 “(L) *ACCESS TO CARE FOR CERTAIN POPU-*
 11 *LATIONS.*—*Demonstrate how the State is ad-*
 12 *ressing the child care needs of parents eligible*
 13 *for child care services for which financial assist-*
 14 *ance is provided under this subchapter who have*
 15 *children with special needs, are limited English*
 16 *proficient, work nontraditional hours, or require*
 17 *child care services for infants or toddlers.”.*

18 **SEC. 2025. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD**
 19 **CARE.**

20 *Section 658G of the Child Care and Development Block*
 21 *Grant Act of 1990 (42 U.S.C. 9858e) is amended to read*
 22 *as follows:*

1 **“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF**
2 **CHILD CARE SERVICES.**

3 *“A State that receives funds to carry out this sub-*
4 *chapter for a fiscal year, shall use not less than 6 percent*
5 *of the amount of such funds for activities provided through*
6 *resource and referral services and other means, that are de-*
7 *signed to improve the quality of child care services in the*
8 *State available from eligible child care providers. Such ac-*
9 *tivities include—*

10 *“(1) programs that provide training, education,*
11 *and other professional development activities to en-*
12 *hance the skills of the child care workforce, including*
13 *training opportunities for caregivers in informal care*
14 *settings;*

15 *“(2) activities within child care settings to en-*
16 *hance early learning for young children, to promote*
17 *early literacy, and to foster school readiness;*

18 *“(3) initiatives to increase the retention and*
19 *compensation of child care providers, including tiered*
20 *reimbursement rates for providers that meet quality*
21 *standards as defined by the State; or*

22 *“(4) other activities deemed by the State to im-*
23 *prove the quality of child care services provided in*
24 *such State.”.*

1 **SEC. 2026. REPORTS AND AUDITS.**

2 *Section 658K(a)(1)(B)(iii) of the Child Care and De-*
3 *velopment Block Grant Act of 1990 (42 U.S.C.*
4 *9858i(a)(1)(B)(iii)) is amended by inserting “ethnicity,*
5 *primary language,” after “race.”*

6 **SEC. 2027. REPORT BY SECRETARY.**

7 *Section 658L of the Child Care and Development Block*
8 *Grant Act of 1990 (42 U.S.C. 9858j) is amended to read*
9 *as follows:*

10 **“SEC. 658L. REPORT BY SECRETARY.**

11 *“(a) REPORT REQUIRED.—Not later than October 1,*
12 *2007, and biennially thereafter, the Secretary shall prepare*
13 *and submit to the Committee on Education and the Work-*
14 *force of the House of Representatives and the Committee*
15 *on Health, Education, Labor and Pensions of the Senate*
16 *a report that contains the following:*

17 *“(1) A summary and analysis of the data and*
18 *information provided to the Secretary in the State re-*
19 *ports submitted under section 658K.*

20 *“(2) Aggregated statistics on the supply of, de-*
21 *mand for, and quality of child care, early education,*
22 *and non-school-hours programs.*

23 *“(3) An assessment, and where appropriate, rec-*
24 *ommendations for the Congress concerning efforts that*
25 *should be undertaken to improve the access of the pub-*

1 *lic to quality and affordable child care in the United*
 2 *States.*

3 “(b) *COLLECTION OF INFORMATION.*—*The Secretary*
 4 *may utilize the national child care data system available*
 5 *through resource and referral organizations at the local,*
 6 *State, and national level to collect the information required*
 7 *by subsection (a)(2).”.*

8 **SEC. 2028. DEFINITIONS.**

9 (a) *ELIGIBLE CHILDREN.*—*Section 658P(4)(B) of the*
 10 *Child Care and Development Block Grant Act of 1990 (42*
 11 *U.S.C. 9858N(4)(B)) is amended by striking “85 percent*
 12 *of the State median income” and inserting “income levels*
 13 *as established by the State, prioritized by need,”.*

14 (b) *LIMITED ENGLISH PROFICIENT.*—*Section 658P of*
 15 *the Child Care and Development Block Grant Act of 1990*
 16 *(42 U.S.C. 9858n) is amended—*

17 (1) *by redesignating paragraph (9) as para-*
 18 *graph (10); and*

19 (2) *by inserting after paragraph (8) the fol-*
 20 *lowing:*

21 “(9) *LIMITED ENGLISH PROFICIENT.*—*The term*
 22 *‘limited English proficient’ means with respect to an*
 23 *individual, that such individual—*

24 *“(A)(i) was not born in the United States*
 25 *or has a native language that is not English;*

1 “(ii)(I) is a Native American, an Alaska
2 Native, or a native resident of a territory or pos-
3 session of the United States; and

4 “(II) comes from an environment in which
5 a language that is not English has had a signifi-
6 cant impact on such individual’s level of English
7 language proficiency; or

8 “(iii) is migratory, has a native language
9 that is not English, and comes from an environ-
10 ment in which a language that is not English is
11 dominant; and

12 “(B) has difficulty in speaking or under-
13 standing the English language to an extent that
14 may be sufficient to deny such individual—

15 “(i) the ability to successfully achieve
16 in classrooms in which the language of in-
17 struction is English; or

18 “(ii) the opportunity to fully partici-
19 pate in society.”.

20 **SEC. 2029. WAIVER AUTHORITY TO EXPAND THE AVAIL-**
21 **ABILITY OF SERVICES UNDER CHILD CARE**
22 **AND DEVELOPMENT BLOCK GRANT ACT OF**
23 **1990.**

24 (a) **WAIVER AUTHORITY.**—For such period up to June
25 30, 2006, and to such extent as the Secretary considers to

1 *be appropriate, the Secretary of Health and Human Service*
2 *may waive or modify, for any affected State, and any State*
3 *servicing significant numbers of individuals adversely af-*
4 *ected by a Gulf hurricane disaster, provisions of the Child*
5 *Care and Development Block Grant Act of 1990 (42 U.S.C.*
6 *9858 et seq.)—*

7 (1) *relating to Federal income limitations on eli-*
8 *gibility to receive child care services for which assist-*
9 *ance is provided under such Act,*

10 (2) *relating to work requirements applicable to*
11 *eligibility to receive child care services for which as-*
12 *sistance is provided under such Act,*

13 (3) *relating to limitations on the use of funds*
14 *under section 658G of the Child Care and Develop-*
15 *ment Block Grant Act of 1990, and*

16 (4) *preventing children designated as evacuees*
17 *from receiving priority for child care services pro-*
18 *vided under such Act, except that children residing in*
19 *a State and currently receiving services should not*
20 *lose such services in order to accommodate evacuee*
21 *children,*

22 *for purposes of easing State fiscal burdens and providing*
23 *child care services to children orphaned, or of families dis-*
24 *placed, as a result of a Gulf hurricane disaster.*

25 (b) *DEFINITIONS.—For purposes of this section:*

1 (1) *AFFECTED STATE.*—The term “affected
2 State” means the State of Alabama, Florida, Lou-
3 isiana, Mississippi, or Texas.

4 (2) *GULF HURRICANE DISASTER.*—The term
5 “Gulf hurricane disaster” means a major disaster
6 that the President declared to exist, in accordance
7 with section 401 of the Robert T. Stafford Disaster
8 Relief and Emergency Assistance Act, and that was
9 caused by Hurricane Katrina or Hurricane Rita.

10 (3) *INDIVIDUAL ADVERSELY AFFECTED BY A*
11 *GULF HURRICANE DISASTER.*—The term “individual
12 adversely affected by a Gulf hurricane disaster”
13 means an individual who, on August 29, 2005, was
14 living, working, or attending school in an area in
15 which the President has declared to exist a Gulf hur-
16 ricane disaster.

17 **PART 4—STATE AND LOCAL FLEXIBILITY**

18 **SEC. 2041. PROGRAM COORDINATION DEMONSTRATION**
19 **PROJECTS.**

20 (a) *PURPOSE.*—The purpose of this section is to estab-
21 lish a program of demonstration projects in a State or por-
22 tion of a State to coordinate multiple public assistance,
23 workforce development, and other programs, for the purpose
24 of supporting working individuals and families, helping
25 families escape welfare dependency, promoting child well-

1 *being, or helping build stronger families, using innovative*
2 *approaches to strengthen service systems and provide more*
3 *coordinated and effective service delivery.*

4 (b) *DEFINITIONS.—In this section:*

5 (1) *ADMINISTERING SECRETARY.—The term “ad-*
6 *ministering Secretary” means, with respect to a*
7 *qualified program, the head of the Federal agency re-*
8 *sponsible for administering the program.*

9 (2) *QUALIFIED PROGRAM.—The term “qualified*
10 *program” means—*

11 (A) *activities funded under title I of the*
12 *Workforce Investment Act of 1998, except subtitle*
13 *C of such title;*

14 (B) *a demonstration project authorized*
15 *under section 505 of the Family Support Act of*
16 *1988;*

17 (C) *activities funded under the Wagner-*
18 *Peyster Act;*

19 (D) *activities funded under the Adult Edu-*
20 *cation and Family Literacy Act; or*

21 (E) *activities funded under the Child Care*
22 *and Development Block Grant Act of 1990;*

23 (c) *APPLICATION REQUIREMENTS.—The head of a*
24 *State entity or of a sub-State entity administering 2 or*
25 *more qualified programs proposed to be included in a dem-*

1 onstration project under this section shall (or, if the project
2 is proposed to include qualified programs administered by
3 2 or more such entities, the heads of the administering enti-
4 ties (each of whom shall be considered an applicant for pur-
5 poses of this section) shall jointly) submit to the admin-
6 istering Secretary of each such program an application that
7 contains the following:

8 (1) *PROGRAMS INCLUDED.*—A statement identi-
9 fying each qualified program to be included in the
10 project, and describing how the purposes of each such
11 program will be achieved by the project.

12 (2) *POPULATION SERVED.*—A statement identi-
13 fying the population to be served by the project and
14 specifying the eligibility criteria to be used.

15 (3) *DESCRIPTION AND JUSTIFICATION.*—A de-
16 tailed description of the project, including—

17 (A) a description of how the project is ex-
18 pected to improve or enhance achievement of the
19 purposes of the programs to be included in the
20 project, from the standpoint of quality, of cost-
21 effectiveness, or of both; and

22 (B) a description of the performance objec-
23 tives for the project, including any proposed
24 modifications to the performance measures and
25 reporting requirements used in the programs.

1 (4) *WAIVERS REQUESTED.*—*A description of the*
2 *statutory and regulatory requirements with respect to*
3 *which a waiver is requested in order to carry out the*
4 *project, and a justification of the need for each such*
5 *waiver.*

6 (5) *COST NEUTRALITY.*—*Such information and*
7 *assurances as necessary to establish to the satisfaction*
8 *of the administering Secretary, in consultation with*
9 *the Director of the Office of Management and Budget,*
10 *that the proposed project is reasonably expected to*
11 *meet the applicable cost neutrality requirements of*
12 *subsection (d)(4).*

13 (6) *EVALUATION AND REPORTS.*—*An assurance*
14 *that the applicant will conduct ongoing and final*
15 *evaluations of the project, and make interim and*
16 *final reports to the administering Secretary, at such*
17 *times and in such manner as the administering Sec-*
18 *retary may require.*

19 (7) *OTHER INFORMATION AND ASSURANCES.*—
20 *Such other information and assurances as the admin-*
21 *istering Secretary may require.*

22 (d) *APPROVAL OF APPLICATIONS.*—

23 (1) *IN GENERAL.*—*The administering Secretary*
24 *with respect to a qualified program that is identified*
25 *in an application submitted pursuant to subsection*

1 (c) may approve the application and, except as pro-
2 vided in paragraph (2), waive any requirement ap-
3 plicable to the program, to the extent consistent with
4 this section and necessary and appropriate for the
5 conduct of the demonstration project proposed in the
6 application, if the administering Secretary deter-
7 mines that the project—

8 (A) has a reasonable likelihood of achieving
9 the objectives of the programs to be included in
10 the project;

11 (B) may reasonably be expected to meet the
12 applicable cost neutrality requirements of para-
13 graph (4), as determined by the Director of the
14 Office of Management and Budget; and

15 (C) includes the coordination of 2 or more
16 qualified programs.

17 (2) *PROVISIONS EXCLUDED FROM WAIVER AU-*
18 *THORITY.*—A waiver shall not be granted under para-
19 graph (1)—

20 (A) with respect to any provision of law re-
21 lating to—

22 (i) civil rights or prohibition of dis-
23 crimination;

24 (ii) purposes or goals of any program;

- 1 (iii) maintenance of effort require-
2 ments;
- 3 (iv) health or safety;
- 4 (v) labor standards under the Fair
5 Labor Standards Act of 1938; or
- 6 (vi) environmental protection;
- 7 (B) with respect to section 241(a) of the
8 Adult Education and Family Literacy Act;
- 9 (C) in the case of a program under the
10 Workforce Investment Act, with respect to any
11 requirement the waiver of which would violate
12 section 189(i)(4)(A)(i) of such Act;
- 13 (D) with respect to any requirement that a
14 State pass through to a sub-State entity part or
15 all of an amount paid to the State;
- 16 (E) if the waiver would waive any funding
17 restriction or limitation provided in an appro-
18 priations Act, or would have the effect of trans-
19 ferring appropriated funds from 1 appropria-
20 tions account to another; or
- 21 (F) except as otherwise provided by statute,
22 if the waiver would waive any funding restric-
23 tion applicable to a program authorized under
24 an Act which is not an appropriations Act (but
25 not including program requirements such as ap-

1 *plication procedures, performance standards, re-*
2 *porting requirements, or eligibility standards),*
3 *or would have the effect of transferring funds*
4 *from a program for which there is direct spend-*
5 *ing (as defined in section 250(c)(8) of the Bal-*
6 *anced Budget and Emergency Deficit Control*
7 *Act of 1985) to another program.*

8 (3) *AGREEMENT OF EACH ADMINISTERING SEC-*
9 *RETARY REQUIRED.—*

10 (A) *IN GENERAL.—An applicant may not*
11 *conduct a demonstration project under this sec-*
12 *tion unless each administering Secretary with*
13 *respect to any program proposed to be included*
14 *in the project has approved the application to*
15 *conduct the project.*

16 (B) *AGREEMENT WITH RESPECT TO FUND-*
17 *ING AND IMPLEMENTATION.—Before approving*
18 *an application to conduct a demonstration*
19 *project under this section, an administering Sec-*
20 *retary shall have in place an agreement with the*
21 *applicant with respect to the payment of funds*
22 *and responsibilities required of the admin-*
23 *istering Secretary with respect to the project.*

24 (4) *COST-NEUTRALITY REQUIREMENT.—*

1 (A) *GENERAL RULE.*—Notwithstanding any
2 other provision of law (except subparagraph
3 (B)), the total of the amounts that may be paid
4 by the Federal Government for a fiscal year with
5 respect to the programs in the State in which an
6 entity conducting a demonstration project under
7 this section is located that are affected by the
8 project shall not exceed the estimated total
9 amount that the Federal Government would have
10 paid for the fiscal year with respect to the pro-
11 grams if the project had not been conducted, as
12 determined by the Director of the Office of Man-
13 agement and Budget.

14 (B) *SPECIAL RULE.*—If an applicant sub-
15 mits to the Director of the Office of Management
16 and Budget a request to apply the rules of this
17 subparagraph to the programs in the State in
18 which the applicant is located that are affected
19 by a demonstration project proposed in an ap-
20 plication submitted by the applicant pursuant to
21 this section, during such period of not more than
22 5 consecutive fiscal years in which the project is
23 in effect, and the Director determines, on the
24 basis of supporting information provided by the
25 applicant, to grant the request, then, notwith-

1 *standing any other provision of law, the total of*
2 *the amounts that may be paid by the Federal*
3 *Government for the period with respect to the*
4 *programs shall not exceed the estimated total*
5 *amount that the Federal Government would have*
6 *paid for the period with respect to the programs*
7 *if the project had not been conducted.*

8 (5) *90-DAY APPROVAL DEADLINE.*—

9 (A) *IN GENERAL.*—*If an administering Sec-*
10 *retary receives an application to conduct a dem-*
11 *onstration project under this section and does*
12 *not disapprove the application within 90 days*
13 *after the receipt, then—*

14 (i) *the administering Secretary is*
15 *deemed to have approved the application for*
16 *such period as is requested in the applica-*
17 *tion, except to the extent inconsistent with*
18 *subsection (e); and*

19 (ii) *any waiver requested in the appli-*
20 *cation which applies to a qualified program*
21 *that is identified in the application and is*
22 *administered by the administering Sec-*
23 *retary is deemed to be granted, except to the*
24 *extent inconsistent with paragraph (2) or*
25 *(4) of this subsection.*

1 (B) *DEADLINE EXTENDED IF ADDITIONAL*
2 *INFORMATION IS SOUGHT.*—*The 90-day period*
3 *referred to in subparagraph (A) shall not include*
4 *any period that begins with the date the Sec-*
5 *retary requests the applicant to provide addi-*
6 *tional information with respect to the applica-*
7 *tion and ends with the date the additional infor-*
8 *mation is provided.*

9 (e) *DURATION OF PROJECTS.*—*A demonstration*
10 *project under this section may be approved for a term of*
11 *not more than 5 years.*

12 (f) *REPORTS TO CONGRESS.*—

13 (1) *REPORT ON DISPOSITION OF APPLICA-*
14 *TIONS.*—*Within 90 days after an administering Sec-*
15 *retary receives an application submitted pursuant to*
16 *this section, the administering Secretary shall submit*
17 *to each Committee of the Congress which has jurisdic-*
18 *tion over a qualified program identified in the appli-*
19 *cation notice of the receipt, a description of the deci-*
20 *sion of the administering Secretary with respect to*
21 *the application, and the reasons for approving or dis-*
22 *approving the application.*

23 (2) *REPORTS ON PROJECTS.*—*Each admin-*
24 *istering Secretary shall provide annually to the Con-*

1 *gress a report concerning demonstration projects ap-*
 2 *proved under this section, including—*

3 *(A) the projects approved for each appli-*
 4 *cant;*

5 *(B) the number of waivers granted under*
 6 *this section, and the specific statutory provisions*
 7 *waived;*

8 *(C) how well each project for which a waiv-*
 9 *er is granted is improving or enhancing pro-*
 10 *gram achievement from the standpoint of qual-*
 11 *ity, cost-effectiveness, or both;*

12 *(D) how well each project for which a waiv-*
 13 *er is granted is meeting the performance objec-*
 14 *tives specified in subsection (c)(3)(B);*

15 *(E) how each project for which a waiver is*
 16 *granted is conforming with the cost-neutrality*
 17 *requirements of subsection (d)(4); and*

18 *(F) to the extent the administering Sec-*
 19 *retary deems appropriate, recommendations for*
 20 *modification of programs based on outcomes of*
 21 *the projects.*

22 **PART 5—EFFECTIVE DATE**

23 **SEC. 2051. EFFECTIVE DATE.**

24 *(a) IN GENERAL.—Except as otherwise provided in*
 25 *this subtitle, this subtitle and the amendments made by this*

1 *subtitle shall take effect on the date of the enactment of this*
 2 *Act.*

3 (b) *EXCEPTION.—In the case of a State plan under*
 4 *part A of title IV of the Social Security Act which the Sec-*
 5 *retary determines requires State legislation in order for the*
 6 *plan to meet the additional requirements imposed by the*
 7 *amendments made by this subtitle, the effective date of the*
 8 *amendments imposing the additional requirements shall be*
 9 *3 months after the first day of the first calendar quarter*
 10 *beginning after the close of the first regular session of the*
 11 *State legislature that begins after the date of the enactment*
 12 *of this Act. For purposes of the preceding sentence, in the*
 13 *case of a State that has a 2-year legislative session, each*
 14 *year of the session shall be considered to be a separate reg-*
 15 *ular session of the State legislature.*

16 ***Subtitle B—Higher Education***

17 ***SEC. 2101. SHORT TITLE.***

18 *This subtitle may be cited as the “Higher Education*
 19 *Budget Reconciliation Act of 2005”.*

20 ***PART 1—AMENDMENTS TO THE HIGHER*** 21 ***EDUCATION ACT OF 1965***

22 ***SEC. 2111. REFERENCES; EFFECTIVE DATE.***

23 (a) *REFERENCES.—Except as otherwise expressly pro-*
 24 *vided, whenever in this part an amendment or repeal is*
 25 *expressed in terms of an amendment to, or repeal of, a sec-*

1 *tion or other provision, the reference shall be considered to*
 2 *be made to a section or other provision of the Higher Edu-*
 3 *cation Act of 1965 (20 U.S.C. 1001 et seq.).*

4 *(b) EFFECTIVE DATE.—Except as otherwise provided*
 5 *in this part, the amendments made by this part shall be*
 6 *effective on the date of enactment of this Act.*

7 **SEC. 2112. MODIFICATION OF 50/50 RULE.**

8 *Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amend-*
 9 *ed—*

10 *(1) in subparagraph (A), by inserting “(exclud-*
 11 *ing courses offered by telecommunications as defined*
 12 *in section 484(l)(4))” after “courses by correspond-*
 13 *ence”; and*

14 *(2) in subparagraph (B), by inserting “(exclud-*
 15 *ing courses offered by telecommunications as defined*
 16 *in section 484(l)(4))” after “correspondence courses”.*

17 **SEC. 2113. REAUTHORIZATION OF FEDERAL FAMILY EDU-**
 18 **CATION LOAN PROGRAM.**

19 *(a) AUTHORIZATION OF APPROPRIATIONS.—Section*
 20 *421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking*
 21 *“an administrative cost allowance” and inserting “a loan*
 22 *processing and issuance fee”.*

23 *(b) EXTENSION OF AUTHORITY.—*

24 *(1) FEDERAL INSURANCE LIMITATIONS.—Section*
 25 *424(a) (20 U.S.C. 1074(a)) is amended—*

1 (A) by striking “2004” and inserting
2 “2012”; and

3 (B) by striking “2008” and inserting
4 “2016”.

5 (2) *GUARANTEED LOANS*.—Section 428(a)(5) (20
6 U.S.C. 1078(a)(5)) is amended—

7 (A) by striking “2004” and inserting
8 “2012”; and

9 (B) by striking “2008” and inserting
10 “2016”.

11 (3) *CONSOLIDATION LOANS*.—Section 428C(e)
12 (20 U.S.C. 1078–3(e)) is amended by striking “2004”
13 and inserting “2012”.

14 **SEC. 2114. LOAN LIMITS.**

15 (a) *FEDERAL INSURANCE LIMITS*.—Section
16 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

17 (1) in clause (i)(I), by striking “\$2,625” and in-
18 serting “\$3,500”; and

19 (2) in clause (ii)(I), by striking “\$3,500” and
20 inserting “\$4,500”.

21 (b) *GUARANTEE LIMITS*.—Section 428(b)(1)(A) (20
22 U.S.C. 1078(b)(1)(A)) is amended—

23 (1) in clause (i)(I), by striking “\$2,625” and in-
24 serting “\$3,500”; and

1 (2) in clause (ii)(I), by striking “\$3,500” and
2 inserting “\$4,500”.

3 (c) *COUNTING OF CONSOLIDATION LOANS AGAINST*
4 *LIMITS.*—Section 428C(a)(3)(B) (20 U.S.C. 1078–
5 3(a)(3)(B)) is amended by adding at the end the following
6 *new clause:*

7 “(ii) Loans made under this section shall, to the
8 extent used to pay off the outstanding principal bal-
9 ance on loans made under this title, excluding cap-
10 italized interest, be counted against the applicable
11 limitations on aggregate indebtedness contained in
12 sections 425(a)(2), 428(b)(1)(B), 428H(d), 455, and
13 464(a)(2)(B).”.

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 *section shall apply with respect to any loan made, insured,*
16 *or guaranteed under part B or part D of title IV of the*
17 *Higher Education Act of 1965 for which the first disburse-*
18 *ment of principal is made on or after July 1, 2007.*

19 **SEC. 2115. INTEREST RATES AND SPECIAL ALLOWANCES.**

20 (a) *FFEL INTEREST RATES.*—Section 427A (20
21 *U.S.C. 1077a(k)) is amended—*

22 (1) *in subsection (k)—*

23 (A) *by striking “, AND BEFORE JULY 1,*
24 *2006” in the heading of such subsection; and*

1 (B) by striking “, and before July 1, 2006,”
2 each place it appears in paragraphs (1), (2),
3 and (3);

4 (2) by striking subsection (l); and

5 (3) by redesignating subsections (m) and (n) as
6 subsections (l) and (m), respectively.

7 (b) *DIRECT LOAN INTEREST RATES.*—Section 455(b)
8 (20 U.S.C. 1087e(b)) is amended—

9 (1) in paragraph (6)—

10 (A) by striking “, AND BEFORE JULY 1,
11 2006” in the heading of such paragraph; and

12 (B) by striking “, and before July 1, 2006,”
13 each place it appears in subparagraphs (A), (B),
14 and (C);

15 (2) by striking paragraph (7); and

16 (3) by redesignating paragraphs (8) and (9) as
17 paragraphs (7) and (8), respectively.

18 (c) *CONSOLIDATION LOAN INTEREST RATES.*—

19 (1) *FFEL LOANS.*—Section 427A(k) (20 U.S.C.
20 1077a(k)) is further amended—

21 (A) in the heading of paragraph (4), by in-
22 serting “BEFORE JULY 1, 2006” after “LOANS”;

23 (B) by redesignating paragraph (5) as
24 paragraph (6); and

1 (C) by inserting after paragraph (4) the fol-
2 lowing:

3 “(5) CONSOLIDATION LOANS ON OR AFTER JULY
4 1, 2006.—

5 “(A) BORROWER ELECTION.—With respect
6 to any consolidation loan under section 428C for
7 which the application is received by an eligible
8 lender on or after July 1, 2006, the applicable
9 rate of interest shall, at the election of the bor-
10 rower at the time of application for the loan, be
11 either at the rate determined under subpara-
12 graph (B) or the rate determined under subpara-
13 graph (C).

14 “(B) VARIABLE RATE.—Except as provided
15 in subparagraph (D), the rate determined under
16 this subparagraph shall, during any 12-month
17 period beginning on July 1 and ending on June
18 30, be determined on the preceding June 1 and,
19 for such 12-month period, not be more than—

20 “(i) the bond equivalent rate of 91-day
21 Treasury bills auctioned at the final auc-
22 tion held prior to such June 1; plus

23 “(ii) 2.3 percent,
24 except that such rate shall not exceed 8.25 per-
25 cent.

1 “(C) *FIXED RATE.*—*Except as provided in*
2 *subparagraph (D), the rate determined under*
3 *this subparagraph shall be determined for the*
4 *duration of the term of the loan on the July 1*
5 *that is or precedes the date on which the applica-*
6 *tion is received by an eligible lender, and shall*
7 *be, for such duration, not more than—*

8 “(i) *the bond equivalent rate of 91-day*
9 *Treasury bills auctioned at the final auc-*
10 *tion held prior to the June 1 immediately*
11 *preceding such July 1; plus*

12 “(ii) *3.3 percent,*
13 *except that such rate shall not exceed 8.25 per-*
14 *cent.*

15 “(D) *CONSOLIDATION OF PLUS LOANS.*—*In*
16 *the case of any such consolidation loan that is*
17 *used to repay loans each of which was made*
18 *under section 428B or was a Federal Direct*
19 *PLUS Loan (or both), the rates determined*
20 *under clauses (B) and (C) shall be determined—*

21 “(i) *by substituting ‘3.1 percent’ for*
22 *‘2.3 percent’;*

23 “(ii) *by substituting ‘4.1 percent’ for*
24 *‘3.3 percent’; and*

1 “(iii) by substituting ‘9.0 percent’ for
2 ‘8.25 percent’.”.

3 (2) *DIRECT LOANS*.—Section 455(b)(6) (20
4 *U.S.C. 1087e(b)(6)*) is further amended—

5 (A) in the heading of subparagraph (D), by
6 inserting “BEFORE JULY 1, 2006” after “LOANS”

7 (B) by redesignating subparagraph (E) as
8 subparagraph (F); and

9 (C) by inserting after subparagraph (D) the
10 following:

11 “(E) *CONSOLIDATION LOANS ON OR AFTER*
12 *JULY 1, 2006*.—

13 “(i) *BORROWER ELECTION*.—Notwith-
14 standing the preceding paragraphs of this
15 subsection, with respect to any Federal Di-
16 rect Consolidation Loan for which the ap-
17 plication is received by the Secretary on or
18 after July 1, 2006, the applicable rate of in-
19 terest shall, at the election of the borrower
20 at the time of application for the loan, be
21 either at the rate determined under clause
22 (ii) or the rate determined under clause
23 (iii).

24 “(ii) *VARIABLE RATE*.—Except as pro-
25 vided in clause (iv), the rate determined

1 under this clause shall, during any 12-
2 month period beginning on July 1 and end-
3 ing on June 30, be determined on the pre-
4 ceding June 1 and, for such 12-month pe-
5 riod, be equal to—

6 “(I) the bond equivalent rate of
7 91-day Treasury bills auctioned at the
8 final auction held prior to such June
9 1; plus

10 “(II) 2.3 percent,
11 except that such rate shall not exceed 8.25
12 percent.

13 “(iii) *FIXED RATE*.—Except as pro-
14 vided in clause (iv), the rate determined
15 under this clause shall be determined for the
16 duration of the term of the loan on the July
17 1 that is or precedes the date on which the
18 application is received by the Secretary,
19 and shall be, for such duration, equal to—

20 “(I) the bond equivalent rate of
21 91-day Treasury bills auctioned at the
22 final auction held prior to the June 1
23 immediately preceding such July 1;
24 plus

25 “(II) 3.3 percent,

1 *except that such rate shall not exceed 8.25*
 2 *percent.*

3 “(iv) *CONSOLIDATION OF PLUS*
 4 *LOANS.—In the case of any such Federal*
 5 *Direct Consolidation Loan that is used to*
 6 *repay loans each of which was made under*
 7 *section 428B or was a Federal Direct*
 8 *PLUS Loan (or both), the rates determined*
 9 *under clauses (ii) and (iii) shall be deter-*
 10 *mined—*

11 *“(I) by substituting ‘3.1 percent’*
 12 *for ‘2.3 percent’;*

13 *“(II) by substituting ‘4.1 percent’*
 14 *for ‘3.3 percent’; and*

15 *“(III) by substituting ‘9.0 percent’*
 16 *for ‘8.25 percent.’”.*

17 *(d) CONSOLIDATION LOAN CONFORMING AMEND-*
 18 *MENT.—Section 428C(c)(1)(A)(ii) (20 U.S.C. 1078-*
 19 *3(c)(1)(A)(ii)) is amended by striking “section 427A(l)(3)”*
 20 *and inserting “section 427A(k)(5)”.*

21 *(e) CONFORMING AMENDMENTS FOR SPECIAL ALLOW-*
 22 *ANCES.—*

23 *(1) AMENDMENT.—Subparagraph (I) of section*
 24 *438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—*

1 (A) by striking clause (ii) and inserting the
2 following:

3 “(ii) *IN SCHOOL AND GRACE PE-*
4 *RIOD.—In the case of any loan for which*
5 *the first disbursement is made on or after*
6 *January 1, 2000, and for which the appli-*
7 *cable interest rate is described in section*
8 *427A(k)(2), clause (i)(III) of this subpara-*
9 *graph shall be applied by substituting ‘1.74*
10 *percent’ for ‘2.34 percent.’”;*

11 (B) in clause (iii),

12 (i) by striking “or (l)(2)”; and

13 (ii) by striking “, subject to clause (v)
14 of this subparagraph”;

15 (C) in clause (iv)—

16 (i) by striking “or (l)(3)” and insert-
17 ing “or (k)(5)”; and

18 (ii) by striking “, subject to clause (vi)
19 of this subparagraph”; and

20 (D) by striking clauses (v), (vi), and (vii)

21 and inserting the following:

22 “(v) *RECAPTURE OF EXCESS INTER-*
23 *EST.—*

24 “(I) *EXCESS CREDITED.—With*
25 *respect to a loan on which the applica-*

1 *ble interest rate is determined under*
2 *section 427A(k) and for which the first*
3 *disbursement of principal is made on*
4 *or after July 1, 2006, if the applicable*
5 *interest rate for any 3-month period*
6 *exceeds the special allowance support*
7 *level applicable to such loan under this*
8 *subparagraph for such period, then an*
9 *adjustment shall be made by calcu-*
10 *lating the excess interest in the amount*
11 *computed under subclause (II) of this*
12 *clause, and by crediting the excess in-*
13 *terest to the Government not less often*
14 *than annually.*

15 *“(II) CALCULATION OF EXCESS.—*

16 *The amount of any adjustment of in-*
17 *terest on a loan to be made under this*
18 *subsection for any quarter shall be*
19 *equal to—*

20 *“(aa) the applicable interest*
21 *rate minus the special allowance*
22 *support level determined under*
23 *this subparagraph; multiplied by*

24 *“(bb) the average daily prin-*
25 *cipal balance of the loan (not in-*

1 *cluding unearned interest added*
 2 *to principal) during such cal-*
 3 *endar quarter; divided by*

4 *“(cc) four.*

5 *“(III) SPECIAL ALLOWANCE SUP-*
 6 *PORT LEVEL.—For purposes of this*
 7 *clause, the term ‘special allowance sup-*
 8 *port level’ means, for any loan, a num-*
 9 *ber expressed as a percentage equal to*
 10 *the sum of the rates determined under*
 11 *subclauses (I) and (III) of clause (i),*
 12 *and applying any substitution rules*
 13 *applicable to such loan under clauses*
 14 *(ii), (iii), and (iv) in determining such*
 15 *sum.”.*

16 *(2) EFFECTIVE DATE.—The amendments made*
 17 *by this subsection shall not apply with respect to any*
 18 *special allowance payment made under section 438 of*
 19 *the Higher Education Act of 1965 (20 U.S.C 1087–*
 20 *1) before July 1, 2006.*

21 **SEC. 2116. ADDITIONAL LOAN TERMS AND CONDITIONS.**

22 *(a) FEDERAL DEFAULT FEES.—*

23 *(1) IN GENERAL.—Subparagraph (H) of section*
 24 *428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to*
 25 *read as follows:*

1 “(H) provides—

2 “(i) for loans for which the first dis-
3 bursement of principal is made before July,
4 1, 2006, for the collection of a single insur-
5 ance premium equal to not more than 1.0
6 percent of the principal amount of the loan,
7 by deduction proportionately from each in-
8 stallment payment of the proceeds of the
9 loan to the borrower, and ensures that the
10 proceeds of the premium will not be used for
11 incentive payments to lenders; or

12 “(ii) for loans for which the first dis-
13 bursement of principal is made on or after
14 July 1, 2006, for the collection and deposit
15 into the Federal Student Loan Reserve
16 Fund under section 422A of a Federal de-
17 fault fee of 1.0 percent of the principal
18 amount of such loan, which shall be de-
19 ducted proportionately from each install-
20 ment payment of the proceeds of the loan to
21 the borrower prior to payment to the bor-
22 rower, and ensures that the proceeds of the
23 Federal default fee will not be used for in-
24 centive payments to lenders;”.

1 (2) *UNSUBSIDIZED LOANS.*—Section 428H(h)
2 (20 U.S.C. 1078–8(h)) is amended by adding at the
3 end the following new sentence: “Effective for loans
4 for which the first disbursement of principal is made
5 on or after July 1, 2006, in lieu of the insurance pre-
6 mium authorized under the preceding sentence, each
7 State or nonprofit private institution or organization
8 having an agreement with the Secretary under section
9 428(b)(1) shall collect and deposit into the Federal
10 Student Loan Reserve Fund under section 422A a
11 Federal default fee of 1.0 percent of the principal
12 amount of the loan, obtained by deduction propor-
13 tionately from each installment payment of the pro-
14 ceeds of the loan to the borrower. The Federal default
15 fee shall not be used for incentive payments to lend-
16 ers.”.

17 (3) *VOLUNTARY FLEXIBLE AGREEMENTS.*—Sec-
18 tion 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amend-
19 ed—

20 (A) by striking “or” at the end of subpara-
21 graph (A);

22 (B) by striking the period at the end of sub-
23 paragraph (B) and inserting “; or”; and

24 (C) by adding at the end the following new
25 subparagraph:

1 “(C) the Federal default fee required by sec-
 2 tion 428(b)(1)(H) and the second sentence of sec-
 3 tion 428H(h).”.

4 (b) *DISBURSEMENT*.—Section 428(b)(1)(N) (20 U.S.C.
 5 1078(b)(1)(N)) is amended—

6 (1) in clause (i), by inserting “(including an eli-
 7 gible foreign institution, except as provided in clause
 8 (ii))” after “institution”; and

9 (2) in clause (ii), by striking “or at an eligible
 10 foreign institution”.

11 (c) *REPAYMENT PLANS*.—

12 (1) *FFEL LOANS*.—Section 428(b)(9)(A) (20
 13 U.S.C. 1078(b)(9)(A)) is amended—

14 (A) by inserting before the semicolon at the
 15 end of clause (ii) the following: “, and the Sec-
 16 retary may not restrict the proportions or ratios
 17 by which such payments may be graduated with
 18 the informed agreement of the borrower”;

19 (B) by striking “and” at the end of clause
 20 (iii);

21 (C) by redesignating clause (iv) as clause
 22 (v); and

23 (D) by inserting after clause (iii) the fol-
 24 lowing new clause:

1 “(iv) a delayed repayment plan under
2 which the borrower makes scheduled pay-
3 ments for not more than 2 years that are
4 annually not less than the amount of inter-
5 est due or \$600, whichever is greater, and
6 then makes payments in accordance with
7 clause (i), (ii), or (iii); and”.

8 (2) *DIRECT LOANS*.—Section 455(d)(1) (20
9 U.S.C. 1087e(d)(1)) is amended—

10 (A) by redesignating subparagraph (D) as
11 subparagraph (E); and

12 (B) by striking subparagraphs (A), (B),
13 and (C) and inserting the following:

14 “(A) a standard repayment plan, consistent
15 with subsection (a)(1) of this section and with
16 section 428(b)(9)(A)(i);

17 “(B) a graduated repayment plan, con-
18 sistent with section 428(b)(9)(A)(ii);

19 “(C) an extended repayment plan, con-
20 sistent with section 428(b)(9)(A)(v), except that
21 the borrower shall annually repay a minimum
22 amount determined by the Secretary in accord-
23 ance with section 428(b)(1)(L);

24 “(D) a delayed repayment plan under
25 which the borrower makes scheduled payments

1 *for not more than 2 years that are annually not*
2 *less than the amount of interest due or \$600,*
3 *whichever is greater, and then makes payments*
4 *in accordance with subparagraph (A), (B), or*
5 *(C); and”.*

6 *(d) ORIGINATION FEES.—*

7 *(1) FFEL PROGRAM.—Paragraph (2) of section*
8 *438(c) (20 U.S.C. 1087–1(c)) is amended—*

9 *(A) by striking the designation and heading*
10 *of such paragraph and inserting the following:*

11 *“(2) AMOUNT OF ORIGINATION FEES.—*

12 *“(A) IN GENERAL.—”; and*

13 *(B) by adding at the end the following new*
14 *subparagraph:*

15 *“(B) SUBSEQUENT REDUCTIONS.—Subpara-*
16 *graph (A) shall be applied to loans made under*
17 *this part (other than loans made under sections*
18 *428C and 439(o))—*

19 *“(i) by substituting ‘2.0 percent’ for*
20 *‘3.0 percent’ with respect to loans for which*
21 *the first disbursement of principal is made*
22 *on or after July 1, 2006, and before July 1,*
23 *2007;*

24 *“(ii) by substituting ‘1.5 percent’ for*
25 *‘3.0 percent’ with respect to loans for which*

1 *the first disbursement of principal is made*
2 *on or after July 1, 2007, and before July 1,*
3 *2008;*

4 *“(iii) by substituting ‘1.0 percent’ for*
5 *‘3.0 percent’ with respect to loans for which*
6 *the first disbursement of principal is made*
7 *on or after July 1, 2008, and before July 1,*
8 *2009;*

9 *“(iv) by substituting ‘0.5 percent’ for*
10 *‘3.0 percent’ with respect to loans for which*
11 *the first disbursement of principal is made*
12 *on or after July 1, 2009, and before July 1,*
13 *2010; and*

14 *“(v) by substituting ‘0.0 percent’ for*
15 *‘3.0 percent’ with respect to loans for which*
16 *the first disbursement of principal is made*
17 *on or after July 1, 2010.”.*

18 (2) *DIRECT LOAN PROGRAM.*—*Subsection (c) of*
19 *section 455 (20 U.S.C. 1087e(c)) is amended to read*
20 *as follows:*

21 “(c) *LOAN FEE.*—

22 “(1) *IN GENERAL.*—*The Secretary shall charge*
23 *the borrower of a loan made under this part an origi-*
24 *nation fee of 4.0 percent of the principal amount of*
25 *loan.*

1 “(2) *SUBSEQUENT REDUCTION.*—*Paragraph (1)*
2 *shall be applied to loans made under this part, other*
3 *than Federal Direct Consolidation loans and Federal*
4 *Direct PLUS loans—*

5 “(A) *by substituting ‘not more or less than*
6 *3.0 percent’ for ‘4.0 percent’ with respect to loans*
7 *for which the first disbursement of principal is*
8 *made on or after July 1, 2006, and before July*
9 *1, 2007;*

10 “(B) *by substituting ‘not more or less than*
11 *2.5 percent’ for ‘4.0 percent’ with respect to loans*
12 *for which the first disbursement of principal is*
13 *made on or after July 1, 2007, and before July*
14 *1, 2008;*

15 “(C) *by substituting ‘not more or less than*
16 *2.0 percent’ for ‘4.0 percent’ with respect to loans*
17 *for which the first disbursement of principal is*
18 *made on or after July 1, 2008, and before July*
19 *1, 2009;*

20 “(D) *by substituting ‘not more or less than*
21 *1.5 percent’ for ‘4.0 percent’ with respect to loans*
22 *for which the first disbursement of principal is*
23 *made on or after July 1, 2009, and before July*
24 *1, 2010; and*

1 “(E) by substituting ‘not more or less than
2 1.0 percent’ for ‘4.0 percent’ with respect to loans
3 for which the first disbursement of principal is
4 made on or after July 1, 2010.

5 “(3) *WAIVERS AND REPAYMENT INCENTIVES PRO-*
6 *HIBITED.—Beginning with loans made on or after*
7 *July 1, 2006, the Secretary is prohibited—*

8 “(A) from waiving any amount of the loan
9 fee prescribed under this section as part of a re-
10 payment incentive in section 455(b)(7); and

11 “(B) from providing any repayment incen-
12 tive before the borrower enters repayment.”.

13 (e) *CONSOLIDATION LOAN OFFSET CHARGE.—*

14 (1) *FFEL CONSOLIDATION LOANS.—Section*
15 *438(c) (20 U.S.C. 1087–1(c)) is further amended—*

16 (A) in paragraph (1)(A), by inserting after
17 “paragraph (2) of this subsection” the following:
18 “and the amount the lender is authorized to col-
19 lect as a consolidation loan offset charge in ac-
20 cordance with paragraph (9) of this subsection”;

21 (B) in paragraph (1)(B)—

22 (i) by inserting “and the consolidation
23 loan offset charge” after “origination fee”;
24 and

1 (ii) by inserting “and consolidation
2 loan offset charges” after “origination fees”;
3 (C) in paragraphs (3) and (4), by inserting
4 “and consolidation loan offset charge” after
5 “origination fee” each place it appears;

6 (D) in paragraph (5)—

7 (i) by inserting “or consolidation loan
8 offset charge” after “origination fee”; and

9 (ii) by inserting “or consolidation loan
10 offset charges” after “origination fees”;

11 (E) in paragraph (7)—

12 (i) by inserting “and consolidation
13 loan offset charges” after “origination fees”;
14 and

15 (ii) by striking “428A or”; and

16 (F) by adding at the end the following new
17 paragraph:

18 “(9) CONSOLIDATION LOAN OFFSET CHARGE.—
19 For any loan under section 428C, the lender is au-
20 thorized to collect a consolidation loan offset charge in
21 an amount not to exceed 1.0 percent of the principal
22 amount of the loan. Such amount may be added to
23 the principal amount of the loan for repayment by
24 the borrower.”.

1 (2) *DIRECT LOANS*.—Section 455(c) (20 U.S.C.
2 1087e(c)), as amended by subsection (d)(2) of this sec-
3 tion, is further amended by adding at the end the fol-
4 lowing new paragraph:

5 “(4) *CONSOLIDATION LOAN OFFSET CHARGES*.—
6 For any Federal Direct Consolidation Loan, the Sec-
7 retary shall collect a consolidation loan offset charge
8 in an amount not more or less than 1.0 percent of the
9 principal amount of the loan. Such amount may be
10 added to the principal amount of the loan for repay-
11 ment by the borrower. Such amount is not subject to
12 the requirements of paragraph (3) of this subsection.”.

13 **SEC. 2117. CONSOLIDATION LOAN CHANGES.**

14 (a) *CROSS-CONSOLIDATION BETWEEN PROGRAMS*.—
15 Section 428C (20 U.S.C. 1078–3) is amended—

16 (1) in subsection (a)(3)(B)(i)—

17 (A) by inserting “or under section 455(g)”
18 after “under this section” both places it appears;

19 (B) by inserting “under both sections” after
20 “terminates”

21 (C) by striking “and” at the end of sub-
22 clause (III);

23 (D) by striking the period at the end of sub-
24 clause (IV) and inserting “; and”; and

1 (E) by adding at the end the following new
2 subclause:

3 “(V) an individual may obtain a subse-
4 quent consolidation loan under section 455(g)
5 only for the purposes of obtaining an income
6 contingent repayment plan, and only if the loan
7 has been submitted to the guaranty agency for
8 default aversion.”; and

9 (2) in subsection (b)(5), by striking the first sen-
10 tence and inserting the following: “In the event that
11 a lender with an agreement under subsection (a)(1) of
12 this section denies a consolidation loan application
13 submitted to it by an eligible borrower under this sec-
14 tion, or denies an application submitted to it by such
15 a borrower for a consolidation loan with income-sen-
16 sitive repayment terms, the Secretary shall offer any
17 such borrower who applies for it, a Federal Direct
18 Consolidation loan. The Secretary shall offer such a
19 loan to a borrower who has defaulted, for the purpose
20 of resolving the default.”.

21 (b) *REPEAL OF IN-SCHOOL CONSOLIDATION.*—

22 (1) *DEFINITION OF REPAYMENT PERIOD.*—*Sec-*
23 *tion 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is*
24 *amended by striking “shall begin—” and all that fol-*
25 *lows through “earlier date.” and inserting the fol-*

1 *lowing: “shall begin the day after 6 months after the*
2 *date the student ceases to carry at least one-half the*
3 *normal full-time academic workload (as determined*
4 *by the institution).”.*

5 (2) *CONFORMING CHANGE TO ELIGIBLE BOR-*
6 *ROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I)*
7 *(20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by in-*
8 *serting “as determined under section 428(b)(7)(A)”*
9 *after “repayment status”.*

10 (c) *INTEREST PAYMENT REBATE FEE.—Section*
11 *428C(f)(2) (20 U.S.C. 1078–2(f)(2)) is amended—*

12 (1) *by striking “SPECIAL RULE.—” and insert-*
13 *ing “SPECIAL RULES.—(A)”;* and

14 (2) *by adding at the end the following new sub-*
15 *paragraph:*

16 *“(B) For consolidation loans based on applica-*
17 *tions received on or after July 1, 2006, if 90 percent*
18 *or more of the total principal and accrued unpaid in-*
19 *terest outstanding on the loans held, directly or indi-*
20 *rectly, by any holder is comprised of principal and*
21 *accrued unpaid interest owed on consolidation loans,*
22 *the rebate described in paragraph (1) for such holder*
23 *shall be equal to 1.30 percent of the principal plus ac-*
24 *crued unpaid interest on such loans.”.*

1 (d) *ADDITIONAL AMENDMENTS.—Section 428C (20*
2 *U.S.C. 1078–3) is amended—*

3 (1) *in subsection (a)(3), by striking subpara-*
4 *graph (C); and*

5 (2) *in subsection (b)(1)—*

6 (A) *by striking everything after “under this*
7 *section” the first place it appears in subpara-*
8 *graph (A) and inserting the following: “and that,*
9 *if all the borrower’s loans under this part are*
10 *held by a single holder, the borrower has notified*
11 *such holder that the borrower is seeking to obtain*
12 *a consolidation loan under this section;”;*

13 (B) *by striking “(i) which” and all that fol-*
14 *lows through “and (ii)” in subparagraph (C);*

15 (C) *by striking “and” at the end of sub-*
16 *paragraph (E);*

17 (D) *by redesignating subparagraph (F) as*
18 *subparagraph (G); and*

19 (E) *by inserting after subparagraph (E) the*
20 *following new subparagraph:*

21 “(F) *that the lender of the consolidation*
22 *loan shall, upon application for such loan, pro-*
23 *vide the borrower with a clear and conspicuous*
24 *notice of at least the following information:*

1 “(i) the effects of consolidation on total
2 interest to be paid, fees to be paid, and
3 length of repayment;

4 “(ii) the effects of consolidation on a
5 borrower’s underlying loan benefits, includ-
6 ing loan forgiveness, cancellation,
7 deferment, and reduced interest rates on
8 those underlying loans;

9 “(iii) the ability of the borrower to
10 prepay the loan, pay on a shorter schedule,
11 and to change repayment plans;

12 “(iv) that borrower benefit programs
13 may vary among different loan holders, and
14 a description of how the borrower benefits
15 may vary among different loan holders;

16 “(v) the tax benefits for which bor-
17 rowers may be eligible;

18 “(vi) the consequences of default; and

19 “(vii) that by making the application
20 the applicant is not obligated to agree to
21 take the consolidation loan; and”.

22 (e) *EFFECTIVE DATE FOR SINGLE HOLDER AMEND-*
23 *MENT.—The amendment made by subsection (d)(2)(A) shall*
24 *apply with respect to any loan made under section 428C*
25 *of the Higher Education Act of 1965 (20 U.S.C. 1078–3)*

1 *for which the application is received by an eligible lender*
2 *on or after July 1, 2006.*

3 *(f) CONFORMING AMENDMENTS TO DIRECT LOAN PRO-*
4 *GRAM.—Section 455 (20 U.S.C. 1087e) is amended*

5 *(1) in subsection (a)(1) by inserting “428C,”*
6 *after “428B,”;*

7 *(2) in subsection (a)(2)—*

8 *(A) by striking “and” at the end of sub-*
9 *paragraph (B);*

10 *(B) by redesignating subparagraph (C) as*
11 *subparagraph (D); and*

12 *(C) by inserting after subparagraph (B) the*
13 *following:*

14 *“(C) section 428C shall be known as ‘Fed-*
15 *eral Direct Consolidation Loans’; and ”; and*

16 *(3) in subsection (g)—*

17 *(A) by striking the second sentence; and*

18 *(B) by adding at the end the following new*
19 *sentences: “To be eligible for a consolidation loan*
20 *under this part, a borrower must meet the eligi-*
21 *bility criteria set forth in section 428C(a)(3).*
22 *The Secretary, upon application for such a loan,*
23 *shall comply with the requirements applicable to*
24 *a lender under section 428C(b)(1)(F).”.*

1 **SEC. 2118. DEFERMENT OF STUDENT LOANS FOR MILITARY**
 2 **SERVICE.**

3 (a) *FEDERAL FAMILY EDUCATION LOANS.*—Section
 4 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

5 (1) by striking “or” at the end of clause (ii);

6 (2) by redesignating clause (iii) as clause (iv);

7 and

8 (3) by inserting after clause (ii) the following
 9 new clause:

10 “(iii) not in excess of 3 years during
 11 which the borrower—

12 “(I) is serving on active duty dur-
 13 ing a war or other military operation
 14 or national emergency; or

15 “(II) is performing qualifying
 16 National Guard duty during a war or
 17 other military operation or national
 18 emergency; or”.

19 (b) *DIRECT LOANS.*—Section 455(f)(2) (20 U.S.C.
 20 1087e(f)(2)) is amended—

21 (1) by redesignating subparagraph (C) as sub-
 22 paragraph (D); and

23 (2) by inserting after subparagraph (B) the fol-
 24 lowing new subparagraph:

25 “(C) not in excess of 3 years during which
 26 the borrower—

1 “(i) is serving on active duty during a
2 war or other military operation or national
3 emergency; or

4 “(ii) is performing qualifying National
5 Guard duty during a war or other military
6 operation or national emergency; or”.

7 (c) *PERKINS LOANS*.—Section 464(c)(2)(A) (20 U.S.C.
8 1087dd(c)(2)(A)) is amended—

9 (1) by redesignating clauses (iii) and (iv) as
10 clauses (iv) and (v), respectively; and

11 (2) by inserting after clause (ii) the following
12 new clause:

13 “(iii) not in excess of 3 years during which the
14 borrower—

15 “(I) is serving on active duty during a war
16 or other military operation or national emer-
17 gency; or

18 “(II) is performing qualifying National
19 Guard duty during a war or other military op-
20 eration or national emergency;”.

21 (d) *DEFINITIONS*.—Section 481 (20 U.S.C. 1088) is
22 amended by adding at the end the following new subsection:

23 “(d) *DEFINITIONS FOR MILITARY DEFERMENTS*.—For
24 purposes of parts B, D, and E of this title:

1 “(1) *ACTIVE DUTY*.—The term ‘active duty’ has
2 the meaning given such term in section 101(d)(1) of
3 title 10, United States Code, except that such term
4 does not include active duty for training or attend-
5 ance at a service school.

6 “(2) *MILITARY OPERATION*.—The term ‘military
7 operation’ means a contingency operation as such
8 term is defined in section 101(a)(13) of title 10,
9 United States Code.

10 “(3) *NATIONAL EMERGENCY*.—The term ‘na-
11 tional emergency’ means the national emergency by
12 reason of certain terrorist attacks declared by the
13 President on September 14, 2001, or subsequent na-
14 tional emergencies declared by the President by rea-
15 son of terrorist attacks.

16 “(4) *SERVING ON ACTIVE DUTY*.—The term ‘serv-
17 ing on active duty during a war or other military op-
18 eration or national emergency’ means service by an
19 individual who is—

20 “(A) a Reserve of an Armed Force ordered
21 to active duty under section 12301(a), 12301(g),
22 12302, 12304, or 12306 of title 10, United States
23 Code, or any retired member of an Armed Force
24 ordered to active duty under section 688 of such
25 title, for service in connection with a war or

1 *other military operation or national emergency,*
2 *regardless of the location at which such active*
3 *duty service is performed; and*

4 “(B) *any other member of an Armed Force*
5 *on active duty in connection with such emer-*
6 *gency or subsequent actions or conditions who*
7 *has been assigned to a duty station at a location*
8 *other than the location at which such member is*
9 *normally assigned.*

10 “(5) *QUALIFYING NATIONAL GUARD DUTY.—The*
11 *term ‘qualifying National Guard duty during a war*
12 *or other military operation or national emergency’*
13 *means service as a member of the National Guard on*
14 *full-time National Guard duty (as defined in section*
15 *101(d)(5) of title 10, United States Code) under a call*
16 *to active service authorized by the President or the*
17 *Secretary of Defense for a period of more than 30*
18 *consecutive days under section 502(f) of title 32,*
19 *United States Code, in connection with a war, other*
20 *military operation, or a national emergency declared*
21 *by the President and supported by Federal funds.”.*

22 “(e) *RULE OF CONSTRUCTION.—Nothing in the amend-*
23 *ments made by this section shall be construed to authorize*
24 *any refunding of any repayment of a loan.*

1 (f) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply with respect to loans for which the first*
 3 *disbursement is made on or after July 1, 1993, to an indi-*
 4 *vidual who is a new borrower (within the meaning of sec-*
 5 *tion 103 of the Higher Education Act of 1965 (20 U.S.C.*
 6 *1003)) on or after such date.*

7 **SEC. 2119. LOAN FORGIVENESS FOR SERVICE IN AREAS OF**
 8 **NATIONAL NEED.**

9 Section 428K (20 U.S.C. 1078–11) is amended to read
 10 *as follows:*

11 **“SEC. 428K. LOAN FORGIVENESS FOR SERVICE IN AREAS OF**
 12 **NATIONAL NEED.**

13 “(a) *PURPOSES.*—*The purposes of this section are—*

14 “(1) *to encourage highly trained individuals to*
 15 *enter and continue in service in areas of national*
 16 *need; and*

17 “(2) *to reduce the burden of student debt for*
 18 *Americans who dedicate their careers to service in*
 19 *areas of national need.*

20 “(b) *PROGRAM AUTHORIZED.*—

21 “(1) *IN GENERAL.*—*The Secretary is authorized*
 22 *to carry out a program of assuming the obligation to*
 23 *repay, pursuant to subsections (c)(2) and (d), a*
 24 *qualified loan amount for a loan made, insured, or*
 25 *guaranteed under this part or part D (other than*

1 *loans made under section 428B and 428C and com-*
 2 *parable loans made under part D), for any new bor-*
 3 *rower after the date of enactment of the Higher Edu-*
 4 *cation Budget Reconciliation Act of 2005, who—*

5 *“(A) has been employed full-time for at*
 6 *least 5 consecutive complete school, academic, or*
 7 *calendar years, as appropriate, in an area of na-*
 8 *tional need described in subsection (c); and*

9 *“(B) is not in default on a loan for which*
 10 *the borrower seeks forgiveness.*

11 *“(2) AWARD BASIS.—Loan repayment under this*
 12 *section shall be on a first-come, first-served basis pur-*
 13 *suant to the designation under subsection (c) and sub-*
 14 *ject to the availability of appropriations.*

15 *“(3) REGULATIONS.—The Secretary is author-*
 16 *ized to issue such regulations as may be necessary to*
 17 *carry out the provisions of this section.*

18 *“(c) AREAS OF NATIONAL NEED.—*

19 *“(1) STATUTORY CATEGORIES.—For purposes of*
 20 *this section, an individual shall be treated as em-*
 21 *ployed in an area of national need if the individual*
 22 *is employed full-time and is any of the following:*

23 *“(A) EARLY CHILDHOOD EDUCATORS.—An*
 24 *individual who is employed as an early child-*
 25 *hood educator in an eligible preschool program*

1 *or child care facility in a low-income commu-*
2 *nity, and who is involved directly in the care,*
3 *development and education of infants, toddlers,*
4 *or young children through age five.*

5 “(B) *NURSES.*—*An individual who is em-*
6 *ployed—*

7 *“(i) as a nurse in a clinical setting; or*

8 *“(ii) as a member of the nursing fac-*
9 *ulty at an accredited school of nursing (as*
10 *those terms are defined in section 801 of the*
11 *Public Health Service Act (42 U.S.C. 296)).*

12 “(C) *FOREIGN LANGUAGE SPECIALISTS.*—
13 *An individual who has obtained a baccalaureate*
14 *degree in a critical foreign language and is em-*
15 *ployed—*

16 *“(i) in an elementary or secondary*
17 *school as a teacher of a critical foreign lan-*
18 *guage; or*

19 *“(ii) in an agency of the United States*
20 *Government in a position that regularly re-*
21 *quires the use of such critical foreign lan-*
22 *guage.*

23 “(D) *LIBRARIANS.*—*An individual who is*
24 *employed as a librarian in—*

1 “(i) a public library that serves a geo-
2 graphic area within which the public
3 schools have a combined average of 30 per-
4 cent or more of their total student enroll-
5 ments composed of children counted under
6 section 1113(a)(5) of the Elementary and
7 Secondary Education Act of 1965; or

8 “(ii) an elementary or secondary school
9 which is in the school district of a local edu-
10 cational agency which is eligible in such
11 year for assistance pursuant to title I of the
12 Elementary and Secondary Education Act
13 of 1965, and which for the purpose of this
14 paragraph and for that year has been deter-
15 mined by the Secretary (pursuant to regula-
16 tions and after consultation with the State
17 educational agency of the State in which the
18 school is located) to be a school in which the
19 enrollment of children counted under section
20 1113(a)(5) of the Elementary and Sec-
21 ondary Education Act of 1965 exceeds 30
22 percent of the total enrollment of that
23 school.

1 “(E) *HIGHLY QUALIFIED TEACHERS: BILIN-*
2 *GUAL EDUCATION AND LOW-INCOME COMMU-*
3 *NITIES.—An individual who—*

4 “(i) *is highly qualified as such term is*
5 *defined in section 9101 of the Elementary*
6 *and Secondary Education Act of 1965; and*

7 “(ii)(I) *is employed as a teacher of bi-*
8 *lingual education; or*

9 “(II) *is employed as a teacher for serv-*
10 *ice in a public or nonprofit private elemen-*
11 *tary or secondary school which is in the*
12 *school district of a local educational agency*
13 *which is eligible in such year for assistance*
14 *pursuant to title I of the Elementary and*
15 *Secondary Education Act of 1965, and*
16 *which for the purpose of this paragraph and*
17 *for that year has been determined by the*
18 *Secretary (pursuant to regulations and*
19 *after consultation with the State edu-*
20 *cational agency of the State in which the*
21 *school is located) to be a school in which the*
22 *enrollment of children counted under section*
23 *1113(a)(5) of the Elementary and Sec-*
24 *ondary Education Act of 1965 exceeds 40*

1 *percent of the total enrollment of that*
2 *school.*

3 “(F) *FIRST RESPONDERS IN LOW-INCOME*
4 *COMMUNITIES.—An individual who—*

5 “(i) *is employed as a firefighter, police*
6 *officer, or emergency medical technician;*
7 *and*

8 “(ii) *serves as such in a low-income*
9 *community.*

10 “(G) *CHILD WELFARE WORKERS.—An indi-*
11 *vidual who—*

12 “(i) *has obtained a degree in social*
13 *work or a related field with a focus on serv-*
14 *ing children and families; and*

15 “(ii) *is employed in public or private*
16 *child welfare services.*

17 “(H) *SPEECH-LANGUAGE PATHOLOGISTS.—*
18 *An individual who is a speech-language patholo-*
19 *gist, who is employed in an eligible preschool*
20 *program or an elementary or secondary school,*
21 *and who has, at a minimum, a graduate degree*
22 *in speech-language pathology, or communication*
23 *sciences and disorders.*

24 “(I) *ADDITIONAL AREAS OF NATIONAL*
25 *NEED.—An individual who is employed in an*

1 *area designated by the Secretary under para-*
2 *graph (2) and has completed a baccalaureate or*
3 *advanced degree related to such area.*

4 “(2) *DESIGNATION OF ADDITIONAL AREAS OF NA-*
5 *TIONAL NEED.—After consultation with appropriate*
6 *Federal, State, and community-based agencies and*
7 *organizations, the Secretary shall designate addi-*
8 *tional areas of national need in which an individual*
9 *may be employed full-time to be eligible for loan re-*
10 *payment under this section. In making such designa-*
11 *tions, the Secretary shall take into account the extent*
12 *to which—*

13 “(A) *the national interest in the area is*
14 *compelling;*

15 “(B) *the area suffers from a critical lack of*
16 *qualified personnel; and*

17 “(C) *other Federal programs support the*
18 *area concerned.*

19 “(d) *QUALIFIED LOAN AMOUNT.—Subject to the avail-*
20 *ability of appropriations, the Secretary shall repay not*
21 *more than \$5,000 in the aggregate of the loan obligation*
22 *on a loan made under section 428 or 428H that is out-*
23 *standing after the completion of the fifth consecutive school,*
24 *academic, or calendar year, as appropriate, described in*
25 *subsection (b)(1).*

1 “(e) *CONSTRUCTION.*—*Nothing in this section shall be*
 2 *construed to authorize the refunding of any repayment of*
 3 *a loan made under section 428 or 428H.*

4 “(f) *INELIGIBILITY OF NATIONAL SERVICE AWARD RE-*
 5 *CIPIENTS.*—*No student borrower may, for the same service,*
 6 *receive a benefit under both this section and subtitle D of*
 7 *title I of the National and Community Service Act of 1990*
 8 *(42 U.S.C. 12601 et seq.).*

9 “(g) *INELIGIBILITY FOR DOUBLE BENEFITS.*—*No bor-*
 10 *rower may receive a reduction of loan obligations under*
 11 *both this section and section 428J or 460.*

12 “(h) *DEFINITIONS.*—*In this section*

13 “(1) *CHILD CARE FACILITY.*—*The term ‘child*
 14 *care facility’ means a facility, including a home,*
 15 *that—*

16 “(A) *provides for the education and care of*
 17 *children from birth through age 5; and*

18 “(B) *meets any applicable State or local*
 19 *government licensing, certification, approval, or*
 20 *registration requirements.*

21 “(2) *CRITICAL FOREIGN LANGUAGE.*—*The term*
 22 *‘critical foreign language’ includes the languages of*
 23 *Arabic, Korean, Japanese, Chinese, Pashto, Persian-*
 24 *Farsi, Serbian-Croatian, Russian, Portuguese, and*
 25 *any other language identified by the Secretary of*

1 *Education, in consultation with the Defense Lan-*
2 *guage Institute, the Foreign Service Institute, and the*
3 *National Security Education Program, as a critical*
4 *foreign language need.*

5 “(3) *EARLY CHILDHOOD EDUCATOR.*—*The term*
6 *‘early childhood educator’ means an early childhood*
7 *educator employed in an eligible preschool program*
8 *who has completed a baccalaureate or advanced de-*
9 *gree in early childhood development, early childhood*
10 *education, or in a field related to early childhood edu-*
11 *cation.*

12 “(4) *ELIGIBLE PRESCHOOL PROGRAM.*—*The*
13 *term ‘eligible preschool program’ means a program*
14 *that provides for the care, development, and education*
15 *of infants, toddlers, or young children through age 5,*
16 *meets any applicable State or local government li-*
17 *censing, certification, approval, and registration re-*
18 *quirements, and is operated by—*

19 “(A) *a public or private school that may be*
20 *supported, sponsored, supervised, or adminis-*
21 *tered by a local educational agency;*

22 “(B) *a Head Start agency serving as a*
23 *grantee designated under the Head Start Act (42*
24 *U.S.C. 9831 et seq.);*

1 “(C) a nonprofit or community based orga-
2 nization; or

3 “(D) a child care program, including a
4 home.

5 “(5) *LOW-INCOME COMMUNITY*.—*In this sub-*
6 *section, the term ‘low-income community’ means a*
7 *community in which 70 percent of households earn*
8 *less than 85 percent of the State median household in-*
9 *come.*

10 “(6) *NURSE*.—*The term ‘nurse’ means a nurse*
11 *who meets all of the following:*

12 “(A) *The nurse graduated from—*

13 “(i) *an accredited school of nursing (as*
14 *those terms are defined in section 801 of the*
15 *Public Health Service Act (42 U.S.C. 296));*

16 “(ii) *a nursing center; or*

17 “(iii) *an academic health center that*
18 *provides nurse training.*

19 “(B) *The nurse holds a valid and unre-*
20 *stricted license to practice nursing in the State*
21 *in which the nurse practices in a clinical setting.*

22 “(C) *The nurse holds one or more of the fol-*
23 *lowing:*

24 “(i) *A graduate degree in nursing, or*
25 *an equivalent degree.*

1 “(ii) *A nursing degree from a collegiate*
2 *school of nursing (as defined in section 801*
3 *of the Public Health Service Act (42 U.S.C.*
4 *296)).*

5 “(iii) *A nursing degree from an asso-*
6 *ciate degree school of nursing (as defined in*
7 *section 801 of the Public Health Service Act*
8 *(42 U.S.C. 296)).*

9 “(iv) *A nursing degree from a diploma*
10 *school of nursing (as defined in section 801*
11 *of the Public Health Service Act (42 U.S.C.*
12 *296)).*

13 “(7) *SPEECH-LANGUAGE PATHOLOGIST.—The*
14 *term ‘speech-language pathologist’ means a speech-*
15 *language pathologist who meets all of the following:*

16 “(A) *the speech-language pathologist has re-*
17 *ceived, at a minimum, a graduate degree in*
18 *speech-language pathology or communication*
19 *sciences and disorders from an institution of*
20 *higher education accredited by an agency or as-*
21 *sociation recognized by the Secretary pursuant*
22 *to section 496(a) of this Act; and*

23 “(B) *the speech-language pathologist meets*
24 *or exceeds the qualifications described in section*

1 1861(l)(3) of the Social Security Act (42 U.S.C.
2 1395x(3)).

3 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
4 *authorized to be appropriated to carry out this section such*
5 *sums as may be necessary for fiscal year 2006 and such*
6 *sums as may be necessary for each of the 5 succeeding fiscal*
7 *years.”.*

8 **SEC. 2120. UNSUBSIDIZED STAFFORD LOANS.**

9 (a) *AMENDMENT.*—*Section 428H(d)(2)(C) (20 U.S.C.*
10 *1078–8(d)(2)(C)) is amended by striking “\$10,000” and in-*
11 *serting “\$12,000”.*

12 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
13 *section (a) shall apply to loans for which the first disburse-*
14 *ment of principal is made on or after July 1, 2007.*

15 **SEC. 2121. ELIMINATION OF TERMINATION DATES FROM**
16 **TAXPAYER-TEACHER PROTECTION ACT OF**
17 **2004.**

18 (a) *EXTENSION OF LIMITATIONS ON SPECIAL ALLOW-*
19 *ANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT*
20 *ISSUES.*—*Section 438(b)(2)(B) (20 U.S.C. 1087–*
21 *1(b)(2)(B)) is amended—*

22 (1) *in clause (iv), by striking “and before Janu-*
23 *ary 1, 2006,”; and*

24 (2) *in clause (v)(II)—*

1 (A) by striking “and before January 1,
2 2006,” each place it appears in divisions (aa)
3 and (bb); and

4 (B) by striking “, and before January 1,
5 2006” in division (cc).

6 (b) *ADDITIONAL LIMITATION ON SPECIAL ALLOWANCE*
7 *FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT*
8 *ISSUES.—Section 438(b)(2)(B) (20 U.S.C 1087–1(b)(2)(B))*
9 *is further amended by adding at the end thereof the fol-*
10 *lowing new clause:*

11 “(vi) Notwithstanding clauses (i), (ii), and (v),
12 the quarterly rate of the special allowance shall be the
13 rate determined under subparagraph (A), (E), (F),
14 (G), (H), or (I) of this paragraph, as the case may
15 be, for a holder of loans—

16 “(I) that were made or purchased on or
17 after October 1, 2005; or

18 “(II) that were not earning a quarterly rate
19 of special allowance determined under clauses (i)
20 or (ii) of subparagraph (B) of this paragraph
21 (20 U.S.C. 1087–1(b)(2)(b)) as of October 1,
22 2005.”.

23 (c) *ELIMINATION OF EFFECTIVE DATE LIMITATION ON*
24 *HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—Para-*
25 *graph (3) of section 3(b) of the Taxpayer-Teacher Protection*

1 *Act of 2004 (20 U.S.C. 1078–10 note) is amended by strik-*
 2 *ing “, and before October 1, 2005”.*

3 *(d) ADDITIONAL CHANGES TO TEACHER LOAN FOR-*
 4 *GIVENESS PROVISIONS.—*

5 *(1) FFEL PROVISIONS.—Section 428J (20*
 6 *U.S.C. 1078–10) is amended—*

7 *(A) in subsection (b)(1)(B), by inserting*
 8 *after “1965” the following: “, or meets the re-*
 9 *quirements of subsection (g)(3)”;*

10 *(B) in subsection (c)(3)—*

11 *(i) by striking “and” at the end of sub-*
 12 *paragraph (A);*

13 *(ii) by striking the period at the end of*
 14 *subparagraph (B) and inserting “; and”;*
 15 *and*

16 *(iii) by inserting after subparagraph*
 17 *(B) the following new subparagraph:*

18 *“(C) an elementary or secondary school*
 19 *teacher who primarily teaches reading—*

20 *“(i) who meets the requirements of sub-*
 21 *section (b);*

22 *“(ii) who has obtained a separate read-*
 23 *ing instruction credential from the State in*
 24 *which the teacher is employed; and*

1 “(iii) who is certified by the chief ad-
 2 ministrative officer of the public or non-
 3 profit private elementary or secondary
 4 school in which the borrower is employed to
 5 teach reading—

6 “(I) as being proficient in teach-
 7 ing the essential components of reading
 8 instruction as defined in section 1208
 9 of the Elementary and Secondary Edu-
 10 cation Act of 1965; and

11 “(II) as having such credential.”;
 12 and

13 (C) in subsection (g), by adding at the end
 14 the following new paragraph:

15 “(3) PRIVATE SCHOOL TEACHERS.—An indi-
 16 vidual who is employed as a teacher in a private
 17 school and is exempt from State certification require-
 18 ments (unless otherwise applicable under State law),
 19 may, in lieu of the requirement of subsection
 20 (a)(1)(B), have such employment treated as quali-
 21 fying employment under this section if such indi-
 22 vidual is permitted to and does satisfy rigorous sub-
 23 ject knowledge and skills tests by taking competency
 24 tests in the applicable grade levels and subject areas.
 25 For such purposes, the competency tests taken by such

1 *a private school teacher must be recognized by 5 or*
 2 *more States for the purpose of fulfilling the highly*
 3 *qualified teacher requirements under section 9101 of*
 4 *the Elementary and Secondary Education Act of*
 5 *1965, and the score achieved by such teacher on each*
 6 *test must equal or exceed the average passing score of*
 7 *those 5 States.”.*

8 (2) *DIRECT LOAN PROVISIONS.—Section 460 (20*
 9 *U.S.C. 1087j) is amended—*

10 (A) *in subsection (b)(1)(A)(ii), by inserting*
 11 *after “1965” the following: “, or meets the re-*
 12 *quirements of subsection (g)(3)”;*

13 (B) *in subsection (c)(3)—*

14 (i) *by striking “and” at the end of sub-*
 15 *paragraph (A);*

16 (ii) *by striking the period at the end of*
 17 *subparagraph (B) and inserting “; and”;*
 18 *and*

19 (iii) *by inserting after subparagraph*
 20 *(B) the following new subparagraph:*

21 “(C) *an elementary or secondary school*
 22 *teacher who primarily teaches reading—*

23 *“(i) who meets the requirements of sub-*
 24 *section (b);*

1 “(ii) who has obtained a separate read-
2 ing instruction credential from the State in
3 which the teacher is employed; and

4 “(iii) who is certified by the chief ad-
5 ministrative officer of the public or non-
6 profit private elementary or secondary
7 school in which the borrower is employed to
8 teach reading—

9 “(I) as being proficient in teach-
10 ing the essential components of reading
11 instruction as defined in section 1208
12 of the Elementary and Secondary Edu-
13 cation Act of 1965; and

14 “(II) as having such credential.”;
15 and

16 (C) in subsection (g), by adding at the end
17 the following new paragraph:

18 “(3) PRIVATE SCHOOL TEACHERS.—An indi-
19 vidual who is employed as a teacher in a private
20 school and is exempt from State certification require-
21 ments (unless otherwise applicable under State law),
22 may, in lieu of the requirement of subsection
23 (a)(1)(A)(ii), have such employment treated as quali-
24 fying employment under this section if such indi-
25 vidual is permitted to and does satisfy rigorous sub-

1 *ject knowledge and skills tests by taking competency*
2 *tests in the applicable grade levels and subject areas.*
3 *For such purposes, the competency tests taken by such*
4 *a private school teacher must be recognized by 5 or*
5 *more States for the purpose of fulfilling the highly*
6 *qualified teacher requirements under section 9101 of*
7 *the Elementary and Secondary Education Act of*
8 *1965, and the score achieved by such teacher on each*
9 *test must equal or exceed the average passing score of*
10 *those 5 States.”.*

11 **SEC. 2122. LOAN FEES FROM LENDERS.**

12 *Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amend-*
13 *ed to read as follows:*

14 *“(2) AMOUNT OF LOAN FEES.—The amount of*
15 *the loan fee which shall be deducted under paragraph*
16 *(1) shall be equal to—*

17 *“(A) 0.50 percent of the principal amount*
18 *of the loan with respect to any loan under this*
19 *part for which the first disbursement was made*
20 *on or after October 1, 1993, and before July 1,*
21 *2006; and*

22 *“(B) 1.0 percent of the principal amount of*
23 *the loan with respect to any loan under this part*
24 *for which the first disbursement was made on or*
25 *after July 1, 2006.”.*

1 **SEC. 2123. ADDITIONAL ADMINISTRATIVE PROVISIONS.**2 *(a) TREATMENT OF EXEMPT CLAIMS.—*3 *(1) INSURANCE COVERAGE.—Section*
4 *428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended*
5 *by inserting before the semicolon at the end the fol-*
6 *lowing: “and 100 percent of the unpaid principal*
7 *amount of exempt claims as defined in subsection*
8 *(c)(1)(G)”.*9 *(2) TREATMENT.—Section 428(c)(1) (20 U.S.C.*
10 *1078(c)(1)) is amended—*11 *(A) by redesignating subparagraph (G) as*
12 *subparagraph (H), and moving such subpara-*
13 *graph 2 em spaces to the left; and*14 *(B) by inserting after subparagraph (F) the*
15 *following new subparagraph:*16 *“(G)(i) Notwithstanding any other provisions of*
17 *this section, in the case of exempt claims, the Sec-*
18 *retary shall apply the provisions of—*19 *“(I) the fourth sentence of subparagraph (A)*
20 *by substituting ‘100 percent’ for ‘95 percent’;*21 *“(II) subparagraph (B)(i) by substituting*
22 *‘100 percent’ for ‘85 percent’; and*23 *“(III) subparagraph (B)(ii) by substituting*
24 *‘100 percent’ for ‘75 percent’.*25 *“(ii) For purposes of clause (i) of this subpara-*
26 *graph, the term ‘exempt claims’ means claims with*

1 *respect to loans for which it is determined that the*
 2 *borrower (or the student on whose behalf a parent has*
 3 *borrowed), without the lender’s or the institution’s*
 4 *knowledge at the time the loan was made, provided*
 5 *false or erroneous information or took actions that*
 6 *caused the borrower or the student to be ineligible for*
 7 *all or a portion of the loan or for interest benefits*
 8 *thereon.”.*

9 **(b) REDUCTION OF INSURANCE PERCENTAGE.—**

10 **(1) INSURANCE PERCENTAGE REDUCTION.—***Sec-*
 11 *tion 428(b)(1)(G) as amended by subsection (a)(1) is*
 12 *further amended by inserting after the matter inserted*
 13 *by such subsection the following: “, except, for any*
 14 *loan for which the first disbursement of principal is*
 15 *made on or after July 1, 2006, the preceding provi-*
 16 *sions of this subparagraph shall be applied by sub-*
 17 *stituting ‘96 percent’ for ‘98 percent’”.*

18 **(2) INCREASE INSURANCE FOR EXCEPTIONAL**
 19 **PERFORMANCE.—***Section 428I (20 U.S.C. 1078–9) is*
 20 *amended to read as follows:*

21 **“SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES**
 22 **FOR EXCEPTIONAL PERFORMANCE.**

23 **“(a) DESIGNATION OF LENDERS AND SERVICERS.—**

24 **“(1) IN GENERAL.—***Whenever the Secretary de-*
 25 *termines that an eligible lender or servicer meets the*

1 *performance measures required by paragraph (2), the*
2 *Secretary shall designate that eligible lender or*
3 *servicer, as the case may be, for exceptional perform-*
4 *ance. The Secretary shall notify each appropriate*
5 *guaranty agency of the eligible lenders and servicers*
6 *designated under this section.*

7 *“(2) PERFORMANCE MEASURES.—*

8 *“(A) In determining whether to award a*
9 *lender or servicer the exceptional performance*
10 *designation, the Secretary shall require that the*
11 *lender or servicer be performing at or above the*
12 *95 percentile of the industry, and demonstrate*
13 *improved performance against the lender’s or*
14 *servicer’s average of the last 3 years on the fac-*
15 *tors described in subparagraph (B).*

16 *“(B) The factors on which the Secretary*
17 *shall require improvement shall include—*

18 *“(i) delinquency rates;*

19 *“(ii) the rate at which delinquent ac-*
20 *counts are restored to good standing;*

21 *“(iii) default rates;*

22 *“(iv) the rate of rejected claims; and*

23 *“(v) any other such measures as deter-*
24 *mined by the Secretary.*

1 “(C) *In addition, the Secretary shall not*
2 *make any award of such a designation unless the*
3 *consequence of the designation is cost-neutral to*
4 *the Federal Government.*

5 “(3) *ADDITIONAL INFORMATION ON LENDERS*
6 *AND SERVICERS.—Each appropriate guaranty agency*
7 *shall provide the Secretary with such other informa-*
8 *tion in its possession regarding an eligible lender or*
9 *servicer desiring designation as may relate to the Sec-*
10 *retary’s determination under paragraph (1), includ-*
11 *ing but not limited to any information suggesting*
12 *that the application of a lender or servicer for des-*
13 *ignation should not be approved.*

14 “(4) *DETERMINATIONS BY THE SECRETARY.—*

15 “(A) *The Secretary shall designate an eligi-*
16 *ble lender or servicer for exceptional performance*
17 *if the eligible lender or servicer meets the per-*
18 *formance measures required by paragraph (2).*

19 “(B) *The Secretary shall make the deter-*
20 *mination under paragraph (1) based upon the*
21 *documentation submitted by the eligible lender or*
22 *servicer as specified in regulation, such other in-*
23 *formation as provided by any guaranty agency*
24 *under paragraph (3), and any information in*
25 *the possession of the Secretary or submitted by*

1 *any other agency or office of the Federal Govern-*
2 *ment.*

3 “(C) *The Secretary shall inform the eligible*
4 *lender or servicer and the appropriate guaranty*
5 *agency that its application for designation as an*
6 *exceptional performance lender or servicer has*
7 *been approved or disapproved.*

8 “(5) *TRANSITION.—*

9 “(A) *Any eligible lender or servicer des-*
10 *ignated for exceptional performance as of the day*
11 *before the date of enactment of the Higher Edu-*
12 *cation Budget Reconciliation Act of 2005 shall*
13 *continue to be so designated, and subject to the*
14 *requirements of this section as in effect on that*
15 *day (including revocation), until the perform-*
16 *ance standards described in paragraph (2) are*
17 *established.*

18 “(B) *The Secretary shall not designate any*
19 *additional eligible lenders or servicers for excep-*
20 *tional performance until those performance*
21 *standards are established.*

22 “(b) *PAYMENT TO LENDERS AND SERVICERS.—A*
23 *guaranty agency shall pay, to each eligible lender or*
24 *servicer (as agent for an eligible lender) designated under*
25 *subsection (a), 98 percent of the unpaid principal and in-*

1 *terest of all loans for which claims are submitted for pay-*
2 *ment by that eligible lender or servicer for the one-year pe-*
3 *riod following the receipt by the guaranty agency of the no-*
4 *tification of designation under this section, or until the*
5 *guaranty agency receives notice from the Secretary that the*
6 *designation of the lender or servicer under subsection (a)(2)*
7 *has been revoked.*

8 “(c) *REVOCATION AUTHORITY.*—

9 “(1) *The Secretary shall revoke the designation*
10 *of a lender or a servicer under subsection (a) if the*
11 *Secretary determines that the lender or servicer has*
12 *failed to meet the performance standards required by*
13 *subsection (a)(2).*

14 “(2) *Notwithstanding any other provision of this*
15 *section, a designation under subsection (a) may be re-*
16 *voked at any time by the Secretary, in the Secretary’s*
17 *discretion, if the Secretary determines that the eligible*
18 *lender or servicer has failed to meet the criteria and*
19 *performance standards established by the Secretary in*
20 *regulation, or if the Secretary believes the lender or*
21 *servicer may have engaged in fraud in securing des-*
22 *ignation under subsection (a), or is failing to service*
23 *loans in accordance with program regulations.*

24 “(d) *DOCUMENTATION.*—*Nothing in this section shall*
25 *restrict or limit the authority of guaranty agencies to re-*

1 *quire the submission of claims documentation evidencing*
2 *servicing performed on loans, except that the guaranty*
3 *agency may not require greater documentation than that*
4 *required for lenders and servicers not designated under sub-*
5 *section (a).*

6 “(e) *SPECIAL RULE.—Reimbursements made by the*
7 *Secretary on loans submitted for claim by an eligible lender*
8 *or loan servicer designated for exceptional performance*
9 *under this section shall not be subject to additional review*
10 *by the Secretary or repurchase by the guaranty agency for*
11 *any reason other than a determination by the Secretary*
12 *that the eligible lender or loan servicer engaged in fraud*
13 *or other purposeful misconduct in obtaining designation for*
14 *exceptional performance.*

15 “(f) *LIMITATION.—Nothing in this section shall be con-*
16 *strued to affect the processing of claims on student loans*
17 *of eligible lenders not subject to this section.*

18 “(g) *CLAIMS.—A lender or servicer designated under*
19 *subsection (a) failing to service loans or otherwise comply*
20 *with applicable program regulations shall be considered in*
21 *violation of section 3729 of title 31, United States Code.*

22 “(h) *TERMINATION.—The Secretary may terminate the*
23 *designation of lenders and servicers under this section if*
24 *he determines that termination would be in the fiscal inter-*
25 *est of the United States.*

1 “(i) *DEFINITIONS.*—As used in this section—

2 “(1) the term ‘eligible loan’ means a loan made,
3 insured, or guaranteed under this part; and

4 “(2) the term ‘servicer’ means an entity servicing
5 and collecting student loans that—

6 “(A) has substantial experience in servicing
7 and collecting consumer loans or student loans;

8 “(B) has an independent financial audit
9 annually which is furnished to the Secretary and
10 any other parties designated by the Secretary;

11 “(C) has business systems which are capable
12 of meeting the requirements of this part;

13 “(D) has adequate personnel who are knowl-
14 edgeable about the student loan programs author-
15 ized by this part; and

16 “(E) does not have any owner, majority
17 shareholder, director, or officer of the entity who
18 has been convicted of a felony.”.

19 (3) *EFFECTIVE DATE OF AMENDMENTS.*—The
20 amendments made by this subsection shall apply with
21 respect to loans for which the first disbursement of
22 principal is made on or after July 1, 2006.

23 (c) *DOCUMENTATION OF FORBEARANCE AGREE-*
24 *MENTS.*—Section 428(c) (20 U.S.C. 1078(c)) is further
25 *amended—*

1 (1) *in paragraph (3)(A)(i)—*

2 (A) *by striking “in writing”; and*

3 (B) *by inserting “and documented in ac-*
4 *cordance with paragraph (10)” after “approval*
5 *of the insurer”; and*

6 (2) *by adding at the end the following new para-*
7 *graph:*

8 “(10) *DOCUMENTATION OF FORBEARANCE*
9 *AGREEMENTS.—For the purposes of paragraph (3),*
10 *the terms of forbearance agreed to by the parties shall*
11 *be documented by confirming the agreement of the*
12 *borrower by notice to the borrower from the lender,*
13 *and by recording the terms in the borrower’s file.”.*

14 (d) *CONSOLIDATION OF DEFAULTED LOANS.—Section*
15 *428(c) (20 U.S.C. 1078(c)) is further amended—*

16 (1) *in paragraph (2)(A)—*

17 (A) *by inserting “(i)” after “including”;*
18 *and*

19 (B) *by inserting before the semicolon at the*
20 *end the following: “and (ii) requirements estab-*
21 *lishing procedures to preclude consolidation lend-*
22 *ing from being an excessive proportion of guar-*
23 *anty agency recoveries on defaulted loans under*
24 *this part”;*

1 (2) in paragraph (2)(D), by striking “paragraph
2 (6)” and inserting “paragraph (6)(A)”; and

3 (3) in paragraph (6)—

4 (A) by inserting “(A)” before “For the pur-
5 pose of paragraph (2)(D),”;

6 (B) by redesignating subparagraphs (A)
7 and (B) as clauses (i) and (ii), respectively; and

8 (C) by adding at the end the following new
9 subparagraphs:

10 “(B) A guaranty agency shall—

11 “(i) on or after October 1, 2006—

12 “(I) not charge the borrower collection
13 costs in an amount in excess of 18.5 percent
14 of the outstanding principal and interest of
15 a defaulted loan that is paid off through
16 consolidation by the borrower under this
17 title; and

18 “(II) remit to the Secretary a portion
19 of the collection charge under subclause (I)
20 equal to 8.5 percent of the outstanding prin-
21 cipal and interest of such defaulted loan;
22 and

23 “(ii) on and after October 1, 2009, remit to
24 the Secretary the entire amount charged under
25 clause (i)(I) with respect to each defaulted loan

1 that is paid off with excess consolidation pro-
2 ceeds.

3 “(C) For purposes of subparagraph (B), the term
4 ‘excess consolidation proceeds’ means, with respect to
5 any guaranty agency for any Federal fiscal year be-
6 ginning on or after October 1, 2009, the proceeds of
7 consolidation of defaulted loans under this title that
8 exceed 45 percent of the agency’s total collections on
9 defaulted loans in such Federal fiscal year.”.

10 (e) *COLLECTION RETENTION PERCENTAGES.*—Clause
11 (ii) of section 428(c)(6)(B) (20 U.S.C. 1078(c)(6)(B)), as
12 redesignated by subsection (d)(3) of this section, is amended
13 to read as follows:

14 “(i) an amount equal to 24 percent of such
15 payments for use in accordance with section
16 422B, except that—

17 “(I) beginning on October 1, 2003, and
18 ending on October 1, 2006, this clause shall
19 be applied by substituting ‘23 percent’ for
20 ‘24 percent’; and

21 “(II) beginning on October 1, 2006,
22 this clause shall be applied by substituting
23 ‘20 percent’ for ‘24 percent’.”.

24 (f) *VOLUNTARY FLEXIBLE AGREEMENTS.*—Section
25 428A (20 U.S.C. 1078–1) is amended—

1 (1) in subsection (a)(1)(B), by striking “unless
2 the Secretary” and all that follows through “des-
3 ignated guarantor”;

4 (2) by striking paragraph (2) of subsection (a);

5 (3) in paragraph (4)(B) of subsection (a), by
6 striking “and any waivers provided to other guaranty
7 agencies under paragraph (2)”;

8 (4) by redesignating paragraphs (3) and (4) of
9 subsection (a) as paragraphs (2) and (3), respectively;
10 and

11 (5) by striking paragraph (3) of subsection (c)
12 and inserting the following:

13 “(3) NOTICE TO INTERESTED PARTIES.—Once
14 the Secretary reaches a tentative agreement in prin-
15 ciple under this section, the Secretary shall publish in
16 the Federal Register a notice that invites interested
17 parties to comment on the proposed agreement. The
18 notice shall state how to obtain a copy of the tentative
19 agreement in principle and shall give interested par-
20 ties no less than 30 days to provide comments. The
21 Secretary may consider such comments prior to pro-
22 viding the notices pursuant to paragraph (2).”.

23 (g) FRAUD: REPAYMENT REQUIRED.—Section
24 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended—

1 (1) *by striking “and” at the end of subpara-*
2 *graph (A);*

3 (2) *by redesignating subparagraph (B) as sub-*
4 *paragraph (C); and*

5 (3) *by inserting after subparagraph (A) the fol-*
6 *lowing new subparagraph:*

7 *“(B) in the case of a parent who has been*
8 *convicted of, or has pled nolo contendere or*
9 *guilty to, a crime involving fraud in obtaining*
10 *funds under this title, such parent has completed*
11 *the repayment of such funds to the Secretary, or*
12 *to the holder in the case of a loan under this title*
13 *obtained by fraud; and”.*

14 (h) *DEFAULT REDUCTION PROGRAM.—Section*
15 *428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—*

16 (1) *in subparagraph (A), by striking “consecu-*
17 *tive payments for 12 months” and inserting “9 pay-*
18 *ments made within 20 days of the due date during*
19 *10 consecutive months”;*

20 (2) *by redesignating subparagraph (C) as sub-*
21 *paragraph (D); and*

22 (3) *by inserting after subparagraph (B) the fol-*
23 *lowing new subparagraph:*

24 *“(C) A guaranty agency may charge the*
25 *borrower and retain collection costs in an*

1 *amount not to exceed 18.5 percent of the out-*
 2 *standing principal and interest at the time of*
 3 *sale of a loan rehabilitated under subparagraph*
 4 *(A).”.*

5 *(i) FINANCIAL AND ECONOMIC LITERACY.—*

6 *(1) DEFAULT REDUCTION PROGRAM.—Section*
 7 *428F is further amended by adding at the end the fol-*
 8 *lowing:*

9 *“(c) FINANCIAL AND ECONOMIC LITERACY.—Where*
 10 *appropriate, each program described under subsection (b)*
 11 *shall include making financial and economic education ma-*
 12 *terials available to the borrower.”.*

13 *(2) PROGRAM ASSISTANCE FOR BORROWERS.—*
 14 *Section 432(k)(1) (20 U.S.C. 1082(k)(1)) is amended*
 15 *by striking “and offering” and all that follows*
 16 *through the period and inserting “, offering loan re-*
 17 *payment matching provisions as part of employee*
 18 *benefit packages, and providing employees with finan-*
 19 *cial and economic education and counseling.”.*

20 *(j) CREDIT BUREAU ORGANIZATION AGREEMENTS.—*
 21 *Section 430A(a) (20 U.S.C. 1080a(a)) is amended by strik-*
 22 *ing “agreements with credit bureau organizations” and in-*
 23 *serting “an agreement with each national credit bureau or-*
 24 *ganization (as described in section 603(p) of the Fair Credit*
 25 *Reporting Act)”.*

1 (k) *UNIFORM ADMINISTRATIVE AND CLAIMS PROCE-*
 2 *DURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is*
 3 *amended by inserting “and anticipated graduation date”*
 4 *after “status change”.*

5 (l) *DEFAULT REDUCTION MANAGEMENT.—Section 432*
 6 *is further amended—*

7 (1) *by striking subsection (n); and*

8 (2) *by redesignating subsections (o) and (p) as*
 9 *subsections (n) and (o), respectively.*

10 (m) *SCHOOLS AS LENDERS.—Paragraph (2) of section*
 11 *435(d) (20 U.S.C. 1085(d)(2)) is amended to read as fol-*
 12 *lows:*

13 “(2) *REQUIREMENTS FOR ELIGIBLE INSTITU-*
 14 *TIONS.—*

15 “(A) *IN GENERAL.—To be an eligible lender*
 16 *under this part, an eligible institution—*

17 “(i) *shall employ at least one person*
 18 *whose full-time responsibilities are limited*
 19 *to the administration of programs of finan-*
 20 *cial aid for students attending such institu-*
 21 *tion;*

22 “(ii) *shall not be a home study school;*

23 “(iii) *shall not—*

24 “(I) *make a loan to any under-*
 25 *graduate student;*

1 “(II) make a loan other than a
2 loan under section 428 or 428H to a
3 graduate or professional student; or

4 “(III) make a loan to a borrower
5 who is not enrolled at that institution;

6 “(iv) shall award any contract for fi-
7 nancing, servicing, or administration of
8 loans under this title on a competitive basis;

9 “(v) shall offer loans that carry an
10 origination fee or an interest rate, or both,
11 that are less than such fee or rate author-
12 ized under the provisions of this title;

13 “(vi) shall not have a cohort default
14 rate (as defined in section 435(m)) greater
15 than 10 percent;

16 “(vii) shall, for any year for which the
17 institution engages in activities as an eligi-
18 ble lender, provide for a compliance audit
19 conducted in accordance with section
20 428(b)(1)(U)(iii)(I), and the regulations
21 thereunder, and submit the results of such
22 audit to the Secretary; and

23 “(viii) shall use any proceeds from spe-
24 cial allowance payments and interest pay-
25 ments from borrowers, interest subsidies re-

1 *ceived from the Department of Education,*
2 *and any proceeds from the sale or other dis-*
3 *position of loans, for need-based grant pro-*
4 *grams.*

5 “(B) *ADMINISTRATIVE EXPENSES.*—*An eli-*
6 *gible lender under subparagraph (A) shall be*
7 *permitted to use a portion of the proceeds de-*
8 *scribed in subparagraph (A)(viii) for reasonable*
9 *and direct administrative expenses.*

10 “(C) *SUPPLEMENT, NOT SUPPLANT.*—*An el-*
11 *igible lender under subparagraph (A) shall en-*
12 *sure that the proceeds described in subparagraph*
13 *(A)(viii) are used to supplement, and not to sup-*
14 *plant, non-Federal funds that would otherwise be*
15 *used for need-based grant programs.”.*

16 (n) *DISABILITY DETERMINATIONS.*—*Section 437(a)*
17 *(20 U.S.C. 1087(a)) is amended by adding at the end the*
18 *following new sentence: “In making such determination of*
19 *permanent and total disability, the Secretary shall not re-*
20 *quire a borrower who has been certified as permanently and*
21 *totally disabled by the Department of Veterans Affairs or*
22 *the Social Security Administration to present further docu-*
23 *mentation of disability for purposes of this title.”.*

24 (o) *TREATMENT OF FALSELY CERTIFIED BOR-*
25 *ROWERS.*—*Section 437(c)(1) (20 U.S.C. 1087(c)(1)) is*

1 amended by inserting “or parent’s eligibility” after “such
2 student’s eligibility”.

3 (p) *PERFECTION OF SECURITY INTERESTS.*—Section
4 439(d) (20 U.S.C. 1087–2(d)) is amended—

5 (1) by striking paragraph (3); and

6 (2) by redesignating paragraphs (4) and (5) as
7 paragraphs (3) and (4), respectively.

8 (q) *ADDITIONAL TECHNICAL AMENDMENTS.*—

9 (1) Section 428(a)(2)(A) (20 U.S.C.
10 1078(a)(2)(A)) is amended—

11 (A) by striking “and” at the end of sub-
12 clause (II) of clause (i); and

13 (B) by moving the margin of clause (iii)
14 two ems to the left.

15 (2) Section 428(a)(3)(A)(v) (20 U.S.C.
16 1078(a)(3)(A)(v)) is amended—

17 (A) by striking “or” at the end of subclause
18 (I);

19 (B) by striking the period at the end of sub-
20 clause (II) and inserting “; or”; and

21 (C) by adding after subclause (II) the fol-
22 lowing new subclause:

23 “(III) in the case of a loan disbursed
24 through an escrow agent, 3 days before the first
25 disbursement of the loan.”.

1 (3) Section 428(c)(1)(A) (20 U.S.C.
2 1078(c)(1)(A)) is amended by striking “45 days” in
3 the last sentence and inserting “30 days”.

4 (4) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is
5 amended by striking “21 days” in the third sentence
6 and inserting “10 days”.

7 (5) Section 428G(e) (20 U.S.C. 1078–7(e)) is
8 amended by striking “, made to a student to cover the
9 cost of attendance at an eligible institution outside
10 the United States,”.

11 (6) Section 428H(e) (20 U.S.C. 1078–8(e)) is
12 amended by striking paragraph (6) and inserting the
13 following:

14 “(6) *TIME LIMITS ON BILLING INTEREST.*—A
15 lender may not receive interest on a loan under this
16 section from a borrower for any period that precedes
17 the dates described in section 428(a)(3)(A)(v).”.

18 (7) Section 432(m)(1)(B) (20 U.S.C.
19 1082(m)(1)(B)) is amended—

20 (A) in clause (i), by inserting “and” after
21 the semicolon at the end; and

22 (B) in clause (ii), by striking “; and” and
23 inserting a period.

24 (8) Section 438(b)(4)(B) (20 U.S.C. 1087–
25 1(b)(4)(B)) is amended by striking “shall be com-

1 *puted” and all that follows through “to the loan” and*
 2 *inserting “described in subparagraph (A) shall be*
 3 *computed using the interest rate described in section*
 4 *3902(a) of title 31, United States Code,”.*

5 **SEC. 2124. FUNDS FOR ADMINISTRATIVE EXPENSES.**

6 *Section 458 is amended to read as follows:*

7 **“SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.**

8 *“(a) ADMINISTRATIVE EXPENSES.—*

9 *“(1) MANDATORY FUNDS FOR FISCAL YEAR*
 10 *2006.—For fiscal year 2006, there shall be available to*
 11 *the Secretary, from funds not otherwise appropriated,*
 12 *funds to be obligated for—*

13 *“(A) administrative costs under this part*
 14 *and part B, including the costs of the direct stu-*
 15 *dent loan programs under this part; and*

16 *“(B) account maintenance fees payable to*
 17 *guaranty agencies under part B and calculated*
 18 *in accordance with subsections (b) and (c),*
 19 *not to exceed (from such funds not otherwise appro-*
 20 *priated) \$820,000,000 in fiscal year 2006.*

21 *“(2) AUTHORIZATION FOR ADMINISTRATIVE*
 22 *COSTS BEGINNING IN FISCAL YEAR 2007.—For each of*
 23 *the fiscal years 2007 through 2011, there are author-*
 24 *ized to be appropriated such sums as may be nec-*
 25 *essary for administrative costs under this part and*

1 *part B, including the costs of the direct student loan*
2 *programs under this part.*

3 *“(3) CONTINUING MANDATORY FUNDS FOR AC-*
4 *COUNT MAINTENANCE FEES.—For each of the fiscal*
5 *years 2007 through 2011, there shall be available to*
6 *the Secretary, from funds not otherwise appropriated,*
7 *funds to be obligated for account maintenance fees*
8 *payable to guaranty agencies under part B and cal-*
9 *culated in accordance with subsection (b).*

10 *“(4) ACCOUNT MAINTENANCE FEES.—Account*
11 *maintenance fees under paragraph (3) shall be paid*
12 *quarterly and deposited in the Agency Operating*
13 *Fund established under section 422B.*

14 *“(5) CARRYOVER.—The Secretary may carry*
15 *over funds made available under this section to a sub-*
16 *sequent fiscal year.*

17 *“(b) CALCULATION BASIS.—Account maintenance fees*
18 *payable to guaranty agencies under subsection (a)(3) shall*
19 *not exceed the basis of 0.10 percent of the original principal*
20 *amount of outstanding loans on which insurance was issued*
21 *under part B.*

22 *“(c) BUDGET JUSTIFICATION.—No funds may be ex-*
23 *pended under this section unless the Secretary includes in*
24 *the Department of Education’s annual budget justification*
25 *to Congress a detailed description of the specific activities*

1 *for which the funds made available by this section have been*
 2 *used in the prior and current years (if applicable), the ac-*
 3 *tivities and costs planned for the budget year, and the pro-*
 4 *jection of activities and costs for each remaining year for*
 5 *which administrative expenses under this section are made*
 6 *available.”.*

7 **SEC. 2125. SIGNIFICANTLY SIMPLIFYING THE STUDENT AID**
 8 **APPLICATION PROCESS.**

9 (a) *EXPANDING THE AUTO-ZERO AND FURTHER SIM-*
 10 *PLIFYING THE SIMPLIFIED NEEDS TEST.—*

11 (1) *SIMPLIFIED NEEDS TEST.—Section 479 (20*
 12 *U.S.C. 1087ss) is amended—*

13 (A) *in subsection (b)—*

14 (i) *in paragraph (1)—*

15 (I) *by striking clause (i) of sub-*
 16 *paragraph (A) and inserting the fol-*
 17 *lowing:*

18 “(i) *the student’s parents file, or are el-*
 19 *igible to file, a form described in paragraph*
 20 *(3) or certify that they are not required to*
 21 *file an income tax return, and the student*
 22 *files, or is eligible to file, such a form or*
 23 *certifies that the student is not required to*
 24 *file an income tax return, or the student’s*
 25 *parents, or the student, received benefits at*

1 *some time during the previous 12-month pe-*
2 *riod under a means-tested Federal benefit*
3 *program as defined under subsection (d);*
4 *and”;* and

5 *(II) by striking clause (i) of sub-*
6 *paragraph (B) and inserting the fol-*
7 *lowing:*

8 *“(i) the student (and the student’s*
9 *spouse, if any) files, or is eligible to file, a*
10 *form described in paragraph (3) or certifies*
11 *that the student (and the student’s spouse, if*
12 *any) is not required to file an income tax*
13 *return, or the student (and the student’s*
14 *spouse, if any) received benefits at some*
15 *time during the previous 12-month period*
16 *under a means-tested Federal benefit pro-*
17 *gram as defined under subsection (d); and”;*
18 *and*

19 *(ii) in paragraph (3), by striking “A*
20 *student or family files a form described in*
21 *this subsection, or subsection (c), as the case*
22 *may be, if the student or family, respec-*
23 *tively, files” and inserting “In the case of*
24 *an independent student, the student, or in*
25 *the case of a dependent student, the parent,*

1 files a form described in this subsection, or
2 subsection (c), as the case may be, if the stu-
3 dent or parent, as appropriate, files”;

4 (B) in subsection (c)—

5 (i) in paragraph (1), by striking sub-
6 paragraph (A) and inserting the following:

7 “(A) the student’s parents file, or are eligi-
8 ble to file, a form described in subsection (b)(3)
9 or certify that they are not required to file an
10 income tax return, and the student files, or is el-
11 igible to file, such a form or certifies that the stu-
12 dent is not required to file an income tax return,
13 or the student’s parents, or the student, received
14 benefits at some time during the previous 12-
15 month period under a means-tested Federal ben-
16 efit program as defined in subsection (d); and”;
17 and

18 (ii) in paragraph (2), by striking sub-
19 paragraph (A) and inserting the following:

20 “(A) the student (and the student’s spouse,
21 if any) files, or is eligible to file, a form de-
22 scribed in subsection (b)(3) or certifies that the
23 student (and the student’s spouse, if any) is not
24 required to file an income tax return, or the stu-
25 dent (and the student’s spouse, if any) received

1 *benefits at some time during the previous 12-*
2 *month period under a means-tested Federal ben-*
3 *efit program as defined in subsection (d); and”;*
4 *and*

5 *(C) by adding at the end the following new*
6 *subsections:*

7 “(d) *DEFINITION OF MEANS-TESTED FEDERAL BEN-*
8 *EFIT PROGRAM.—For the purposes of this section, the term*
9 *‘means-tested Federal benefit program’ means a mandatory*
10 *spending program of the Federal Government, other than*
11 *a program under this title, in which eligibility for the pro-*
12 *gram’s benefits, or the amount of such benefits, or both, are*
13 *determined on the basis of income or resources of the indi-*
14 *vidual or family seeking the benefit, and may include such*
15 *programs as the supplemental security income program*
16 *under title XVI of the Social Security Act, the food stamp*
17 *program under the Food Stamp Act of 1977, the free and*
18 *reduced price school lunch program established under the*
19 *Richard B. Russell National School Lunch Act, the tem-*
20 *porary assistance to needy families program established*
21 *under part A of title IV of the Social Security Act, and*
22 *the women, infants and children program established under*
23 *Section 17 of the Child Nutrition Act of 1966, and other*
24 *programs identified by the Secretary.*

1 “(e) *REPORTING REQUIREMENTS.*—*The Secretary*
 2 *shall regularly evaluate the impact of the eligibility guide-*
 3 *lines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A) and*
 4 *(c)(2)(A) of this section. In particular, the Secretary shall*
 5 *evaluate whether using receipt of benefits under a means-*
 6 *tested Federal benefit program (as defined in subsection (d))*
 7 *for eligibility continues to target the Simplified Needs Test,*
 8 *to the greatest extent possible, for use by low- and moderate-*
 9 *income students and their families.”.*

10 (b) *IMPROVEMENTS TO PAPER AND ELECTRONIC*
 11 *FORMS.*—

12 (1) *COMMON FINANCIAL AID FORM DEVELOPMENT*
 13 *AND PROCESSING.*—*Section 483(a) (20 U.S.C.*
 14 *1090(a)) is amended—*

15 (A) *by striking paragraphs (1), (2), and*
 16 (5);

17 (B) *by redesignating paragraphs (3), (4),*
 18 (6), *and (7), as paragraphs (9), (10), (11), and*
 19 (12), *respectively;*

20 (C) *by inserting before paragraph (9), as*
 21 *redesignated by subparagraph (B), the following:*

22 “(1) *IN GENERAL.*—*The Secretary, in coopera-*
 23 *tion with representatives of agencies and organiza-*
 24 *tions involved in student financial assistance, shall*
 25 *produce, distribute, and process free of charge com-*

1 *mon financial reporting forms as described in this*
2 *subsection to be used for application and reapplica-*
3 *tion to determine the need and eligibility of a student*
4 *for financial assistance under parts A through E*
5 *(other than subpart 4 of part A). These forms shall*
6 *be made available to applicants in both paper and*
7 *electronic formats and shall be referred to as the ‘Free*
8 *Application for Federal Student Aid’ or the ‘FAFSA’*
9 *.*

10 *“(2) EARLY ESTIMATES.—*

11 *“(A) IN GENERAL.—The Secretary shall*
12 *permit applicants to complete such forms as de-*
13 *scribed in this subsection in the 4 years prior to*
14 *enrollment in order to obtain a non-binding esti-*
15 *mate of the family contribution, as defined in*
16 *section 473. The estimate shall clearly and con-*
17 *spicuously indicate that it is only an estimate of*
18 *family contribution, and may not reflect the ac-*
19 *tual family contribution of the applicant that*
20 *shall be used to determine the grant, loan, or*
21 *work assistance that the applicant may receive*
22 *under this title when enrolled in a program of*
23 *postsecondary education. Such applicants shall*
24 *be permitted to update information submitted on*

1 *forms described in this subsection using the proc-*
2 *ess required under paragraph (5)(A).*

3 “(B) *EVALUATION.*—*Two years after the*
4 *early estimates are implemented under this*
5 *paragraph and from data gathered from the*
6 *early estimates, the Secretary shall evaluate the*
7 *differences between initial, non-binding early es-*
8 *timates and the final financial aid award made*
9 *available under this title.*

10 “(C) *REPORT.*—*The Secretary shall provide*
11 *a report to the authorizing committees on the re-*
12 *sults of the evaluation.*

13 “(3) *PAPER FORMAT.*—

14 “(A) *IN GENERAL.*—*The Secretary shall*
15 *produce, distribute, and process common forms*
16 *in paper format to meet the requirements of*
17 *paragraph (1). The Secretary shall develop a*
18 *common paper form for applicants who do not*
19 *meet the requirements of subparagraph (B).*

20 “(B) *EZ FAFSA.*—

21 “(i) *IN GENERAL.*—*The Secretary shall*
22 *develop and use a simplified paper applica-*
23 *tion form, to be known as the ‘EZ FAFSA’,*
24 *to be used for applicants meeting the re-*
25 *quirements of section 479(c).*

1 “(ii) *REDUCED DATA REQUIRE-*
2 *MENTS.—The form under this subparagraph*
3 *shall permit an applicant to submit, for fi-*
4 *ancial assistance purposes, only the data*
5 *elements required to make a determination*
6 *of whether the applicant meets the require-*
7 *ments under section 479(c).*

8 “(iii) *STATE DATA.—The Secretary*
9 *shall include on the form under this sub-*
10 *paragraph such data items as may be nec-*
11 *essary to award State financial assistance,*
12 *as provided under paragraph (6), except*
13 *that the Secretary shall not include a*
14 *State’s data if that State does not permit*
15 *its applicants for State assistance to use the*
16 *form under this subparagraph.*

17 “(iv) *FREE AVAILABILITY AND PROC-*
18 *ESSING.—The provisions of paragraph (7)*
19 *shall apply to the form under this subpara-*
20 *graph, and the data collected by means of*
21 *the form under this subparagraph shall be*
22 *available to institutions of higher education,*
23 *guaranty agencies, and States in accord-*
24 *ance with paragraph (9).*

1 “(v) *TESTING.*—*The Secretary shall*
2 *conduct appropriate field testing on the*
3 *form under this subparagraph.*

4 “(C) *PROMOTING THE USE OF ELECTRONIC*
5 *FAFSA.*—

6 “(i) *IN GENERAL.*—*The Secretary*
7 *shall—*

8 “(I) *develop a form that uses skip*
9 *logic to simplify the application proc-*
10 *ess for applicants; and*

11 “(II) *make all efforts to encourage*
12 *applicants to utilize the electronic*
13 *forms described in paragraph (4).*

14 “(ii) *MAINTENANCE OF THE FAFSA IN*
15 *A PRINTABLE ELECTRONIC FILE.*—*The Sec-*
16 *retary shall maintain a version of the paper*
17 *forms described in subparagraphs (A) and*
18 *(B) in a printable electronic file that is eas-*
19 *ily portable. The printable electronic file*
20 *will be made easily accessible and*
21 *downloadable to students on the same*
22 *website used to provide students with the*
23 *electronic application forms described in*
24 *paragraph (4) of this subsection. The Sec-*
25 *retary shall enable students to submit a*

1 *form created under this subparagraph that*
2 *is downloaded and printed from an elec-*
3 *tronic file format in order to meet the filing*
4 *requirements of this section and in order to*
5 *receive aid from programs under this title.*

6 “(iii) *REPORTING REQUIREMENT.—*

7 *The Secretary shall report annually to Con-*
8 *gress on the impact of the digital divide on*
9 *students completing applications for title IV*
10 *aid described under this paragraph and*
11 *paragraph (4). The Secretary will also re-*
12 *port on the steps taken to eliminate the dig-*
13 *ital divide and phase out the paper form*
14 *described in subparagraph (A) of this para-*
15 *graph. The Secretary’s report will specifi-*
16 *cally address the impact of the digital di-*
17 *vide on the following student populations:*
18 *dependent students, independent students*
19 *without dependents, and independent stu-*
20 *dents with dependents other than a spouse.*

21 “(4) *ELECTRONIC FORMAT.—*

22 “(A) *IN GENERAL.—The Secretary shall*
23 *produce, distribute, and process common forms*
24 *in electronic format to meet the requirements of*
25 *paragraph (1). The Secretary shall develop com-*

1 *mon electronic forms for applicants who do not*
2 *meet the requirements of subparagraph (C) of*
3 *this paragraph.*

4 “(B) *STATE DATA.*—*The Secretary shall in-*
5 *clude on the common electronic forms space for*
6 *information that needs to be submitted from the*
7 *applicant to be eligible for State financial assist-*
8 *ance, as provided under paragraph (6), except*
9 *the Secretary shall not require applicants to*
10 *complete data required by any State other than*
11 *the applicant’s State of residence.*

12 “(C) *SIMPLIFIED APPLICATIONS: FAFSA ON*
13 *THE WEB.*—

14 “(i) *IN GENERAL.*—*The Secretary shall*
15 *develop and use a simplified electronic ap-*
16 *plication form to be used by applicants*
17 *meeting the requirements under subsection*
18 *(c) of section 479 and an additional, sepa-*
19 *rate simplified electronic application form*
20 *to be used by applicants meeting the re-*
21 *quirements under subsection (b) of section*
22 *479.*

23 “(ii) *REDUCED DATA REQUIRE-*
24 *MENTS.*—*The simplified electronic applica-*
25 *tion forms shall permit an applicant to sub-*

1 *mit for financial assistance purposes only*
2 *the data elements required to make a deter-*
3 *mination of whether the applicant meets the*
4 *requirements under subsection (b) or (c) of*
5 *section 479.*

6 “(iii) *STATE DATA.—The Secretary*
7 *shall include on the simplified electronic*
8 *application forms such data items as may*
9 *be necessary to award state financial assist-*
10 *ance, as provided under paragraph (6), ex-*
11 *cept that the Secretary shall not require ap-*
12 *plicants to complete data required by any*
13 *State other than the applicant’s State of*
14 *residence.*

15 “(iv) *AVAILABILITY AND PROC-*
16 *ESSING.—The data collected by means of the*
17 *simplified electronic application forms shall*
18 *be available to institutions of higher edu-*
19 *cation, guaranty agencies, and States in ac-*
20 *cordance with paragraph (9).*

21 “(v) *TESTING.—The Secretary shall*
22 *conduct appropriate field testing on the*
23 *forms developed under this subparagraph.*

24 “(D) *USE OF FORMS.—Nothing in this sub-*
25 *section shall be construed to prohibit the use of*

1 *the forms developed by the Secretary pursuant to*
2 *this paragraph by an eligible institution, eligible*
3 *lender, guaranty agency, State grant agency,*
4 *private computer software provider, a consor-*
5 *tium thereof, or such other entities as the Sec-*
6 *retary may designate.*

7 “(E) *PRIVACY.—The Secretary shall ensure*
8 *that data collection under this paragraph com-*
9 *plies with section 552a of title 5, United States*
10 *Code, and that any entity using the electronic*
11 *version of the forms developed by the Secretary*
12 *pursuant to this paragraph shall maintain rea-*
13 *sonable and appropriate administrative, tech-*
14 *nical, and physical safeguards to ensure the in-*
15 *tegrity and confidentiality of the information,*
16 *and to protect against security threats, or unau-*
17 *thorized uses or disclosures of the information*
18 *provided on the electronic version of the forms.*
19 *Data collected by such electronic version of the*
20 *forms shall be used only for the application,*
21 *award, and administration of aid awarded*
22 *under this title, State aid, or aid awarded by el-*
23 *igible institutions or such entities as the Sec-*
24 *retary may designate. No data collected by such*
25 *electronic version of the forms shall be used for*

1 *making final aid awards under this title until*
2 *such data have been processed by the Secretary*
3 *or a contractor or designee of the Secretary, and*
4 *an expected family contribution has been cal-*
5 *culated by the Secretary, except as may be per-*
6 *mitted under this title.*

7 “(F) *SIGNATURE.*—*Notwithstanding any*
8 *other provision of this Act, the Secretary may*
9 *permit an electronic form under this paragraph*
10 *to be submitted with an electronic signature.*

11 “(5) *STREAMLINING.*—

12 “(A) *STREAMLINED REAPPLICATION PROC-*
13 *ESS.*—

14 “(i) *IN GENERAL.*—*The Secretary shall*
15 *develop streamlined reapplication forms*
16 *and processes, including both paper and*
17 *electronic reapplication processes, consistent*
18 *with the requirements of this subsection, for*
19 *an applicant who applies for financial as-*
20 *sistance under this title—*

21 “(I) *in the academic year suc-*
22 *ceeding the year in which such appli-*
23 *cant first applied for financial assist-*
24 *ance under this title; or*

1 “(II) *in any succeeding academic*
2 *years.*

3 “(ii) *MECHANISMS FOR REAPPLICA-*
4 *TION.—The Secretary shall develop appro-*
5 *priate mechanisms to support reapplica-*
6 *tion.*

7 “(iii) *IDENTIFICATION OF UPDATED*
8 *DATA.—The Secretary shall determine, in*
9 *cooperation with States, institutions of*
10 *higher education, agencies, and organiza-*
11 *tions involved in student financial assist-*
12 *ance, the data elements that can be updated*
13 *from the previous academic year’s applica-*
14 *tion.*

15 “(iv) *REDUCED DATA AUTHORIZED.—*
16 *Nothing in this title shall be construed as*
17 *limiting the authority of the Secretary to*
18 *reduce the number of data elements required*
19 *of reapplicants.*

20 “(v) *ZERO FAMILY CONTRIBUTION.—*
21 *Applicants determined to have a zero family*
22 *contribution pursuant to section 479(c)*
23 *shall not be required to provide any finan-*
24 *cial data in a reapplication form, except*

1 that which is necessary to determine eligi-
2 bility under such section.

3 “(B) *REDUCTION OF DATA ELEMENTS.*—

4 “(i) *REDUCTION ENCOURAGED.*—Of the
5 number of data elements on the FAFSA on
6 the date of enactment of the Higher Edu-
7 cation Budget Reconciliation Act of 2005
8 (including questions on the FAFSA for the
9 purposes described in paragraph (6)), the
10 Secretary, in cooperation with representa-
11 tives of agencies and organizations involved
12 in student financial assistance, shall con-
13 tinue to reduce the number of such data ele-
14 ments following the date of enactment. Re-
15 ductions of data elements under paragraph
16 (3)(B), (4)(C), or (5)(A)(iv) shall not be
17 counted towards the reduction referred to in
18 this paragraph unless those data elements
19 are reduced for all applicants.

20 “(ii) *REPORT.*—The Secretary shall
21 annually report to the House of Representa-
22 tives and the Senate on the progress made
23 of reducing data elements.

24 “(6) *STATE REQUIREMENTS.*—

1 “(A) *IN GENERAL.*—*The Secretary shall in-*
2 *clude on the forms developed under this sub-*
3 *section, such State-specific data items as the Sec-*
4 *retary determines are necessary to meet State re-*
5 *quirements for State need-based financial aid*
6 *under section 415C, except as provided in para-*
7 *graphs (3)(B)(iii) and (4)(C)(iii) of this sub-*
8 *section. Such items shall be selected in consulta-*
9 *tion with State agencies in order to assist in the*
10 *awarding of State financial assistance in accord-*
11 *ance with the terms of this subsection, except as*
12 *provided in paragraphs (3)(B)(iii) and*
13 *(4)(C)(iii) of this subsection. The number of such*
14 *data items shall not be less than the number in-*
15 *cluded on the form on October 7, 1998, unless a*
16 *State notifies the Secretary that the State no*
17 *longer requires those data items for the distribu-*
18 *tion of State need-based financial aid.*

19 “(B) *ANNUAL REVIEW.*—*The Secretary shall*
20 *conduct an annual review process to determine*
21 *which forms and data items the States require to*
22 *award State need-based financial aid and other*
23 *application requirements that the States may*
24 *impose.*

1 “(C) *STATE USE OF SIMPLIFIED FORMS.*—
 2 *The Secretary shall encourage States to take such*
 3 *steps as necessary to encourage the use of sim-*
 4 *plified application forms, including those de-*
 5 *scribed in paragraphs (3)(B) and (4)(C), to meet*
 6 *the requirements under subsection (b) or (c) of*
 7 *section 479.*

8 “(D) *FEDERAL REGISTER NOTICE.*—*The*
 9 *Secretary shall publish on an annual basis a no-*
 10 *tice in the Federal Register requiring State agen-*
 11 *cies to inform the Secretary—*

12 “(i) *if the State agency is unable to*
 13 *permit applicants to utilize the simplified*
 14 *application forms described in paragraphs*
 15 *(3)(B) and (4)(C); and*

16 “(ii) *of the State-specific data that the*
 17 *State agency requires for delivery of State*
 18 *need-based financial aid.*

19 “(E) *STATE NOTIFICATION TO THE SEC-*
 20 *RETARY.*—

21 “(i) *IN GENERAL.*—*Each State agency*
 22 *shall notify the Secretary—*

23 “(I) *whether the State permits an*
 24 *applicant to file a form described in*
 25 *paragraph (3)(B) or paragraph (4)(C)*

1 *of this subsection for purposes of deter-*
2 *mining eligibility for State need-based*
3 *financial aid; and*

4 *“(II) the State-specific data that*
5 *the State agency requires for delivery*
6 *of State need-based financial aid.*

7 *“(ii) ACCEPTANCE OF FORMS.—In the*
8 *event that a State does not permit an appli-*
9 *cant to file a form described in paragraph*
10 *(3)(B) or paragraph (4)(C) of this sub-*
11 *section for purposes of determining eligi-*
12 *bility for State need-based financial aid—*

13 *“(I) the State shall notify the Sec-*
14 *retary if the State is not permitted to*
15 *do so because of either State law or be-*
16 *cause of agency policy; and*

17 *“(II) the notification under sub-*
18 *clause (I) shall include an estimate of*
19 *the program cost to permit applicants*
20 *to complete simplified application*
21 *forms under paragraphs (3)(B) and*
22 *paragraph (4)(C) of this subsection.*

23 *“(iii) LACK OF NOTIFICATION BY THE*
24 *STATE.—If a State does not notify the Sec-*

1 retary pursuant to clause (i), the Secretary
2 shall—

3 “(I) permit residents of that State
4 to complete simplified application
5 forms under paragraphs (3)(B) and
6 paragraph (4)(C) of this subsection;
7 and

8 “(II) not require any resident of
9 that State to complete any data pre-
10 viously required by that State under
11 this section.

12 “(7) CHARGES TO STUDENTS AND PARENTS FOR
13 USE OF FORMS PROHIBITED.—

14 “(A) FEES PROHIBITED.—The FAFSA, in
15 whatever form (including the EZ-FAFSA,
16 paper, electronic, simplified, or reapplication),
17 shall be produced, distributed, and processed by
18 the Secretary and no parent or student shall be
19 charged a fee by any entity for the collection,
20 processing, or delivery of financial aid through
21 the use of the FAFSA. The need and eligibility
22 of a student for financial assistance under parts
23 A through E of this title (other than under sub-
24 part 4 of part A) may only be determined by
25 using the FAFSA developed by the Secretary

1 *pursuant to this subsection. No student may re-*
2 *ceive assistance under parts A through E of this*
3 *title (other than under subpart 4 of part A), ex-*
4 *cept by use of the FAFSA developed by the Sec-*
5 *retary pursuant to this subsection. No data col-*
6 *lected on a form, worksheet, or other document*
7 *for which a fee is charged shall be used to com-*
8 *plete the FAFSA.*

9 “(B) NOTICE.—*Any entity that provides to*
10 *students or parents, or charges students or par-*
11 *ents for, any value-added services with respect to*
12 *or in connection with the FAFSA, such as com-*
13 *pletion of the FAFSA, submission of the FAFSA,*
14 *or tracking of the FAFSA for a student, shall*
15 *provide to students and parents clear and con-*
16 *spicuous notice that—*

17 “(i) *the FAFSA is a free Federal stu-*
18 *dent aid application;*

19 “(ii) *the FAFSA can be completed*
20 *without professional assistance; and*

21 “(iii) *includes the current Internet ad-*
22 *dress for the FAFSA on the Department’s*
23 *web site.*

24 “(8) APPLICATION PROCESSING CYCLE.—*The*
25 *Secretary shall enable students to submit a form cre-*

1 *ated under this subsection in order to meet the filing*
 2 *requirements of this section and in order to receive*
 3 *aid from programs under this title and shall initiate*
 4 *the processing of applications under this subsection as*
 5 *early as practicable prior to January 1 of the stu-*
 6 *dent's planned year of enrollment."*

7 (2) *MASTER CALENDAR.—Section 482(a)(1)(B)*
 8 *(20 U.S.C. 1089) is amended to read as follows:*

9 *"(B) by March 1: proposed modifications,*
 10 *updates, and notices pursuant to sections 478,*
 11 *479(c)(2)(C), and 483(a)(6) published in the*
 12 *Federal Register;"*.

13 (c) *INCREASING ACCESS TO TECHNOLOGY.—Section*
 14 *483 (20 U.S.C. 1090) is further amended by adding at the*
 15 *end the following:*

16 *"(f) ADDRESSING THE DIGITAL DIVIDE.—The Sec-*
 17 *retary shall utilize savings accrued by moving more appli-*
 18 *cants to the electronic forms described in subsection (a)(4)*
 19 *to improve access to the electronic forms described in sub-*
 20 *section (a)(4) for applicants meeting the requirements of*
 21 *section 479(c)."*

22 (d) *EXPANDING THE DEFINITION OF AN INDEPENDENT*
 23 *STUDENT.—Section 480(d) (20 U.S.C.1087vv(d)) is amend-*
 24 *ed by striking paragraph (2) and inserting the following:*

1 “(2) is an orphan, in foster care, or a ward of
2 the court, or was in foster care or a ward of the court
3 until the individual reached the age of 18;”.

4 **SEC. 2126. ADDITIONAL NEED ANALYSIS AMENDMENTS.**

5 (a) *INCOME PROTECTION ALLOWANCE FOR DEPEND-*
6 *ENT STUDENTS.*—

7 (1) *AMENDMENT.*—Section 475(g)(2)(D) (20
8 *U.S.C. 1087oo(g)(2)(D))* is amended by striking
9 “\$2,200” and inserting “\$3,000”.

10 (2) *CONFORMING AMENDMENT.*—Section 478(b)
11 (20 *U.S.C. 1087rr(b))* is amended by adding at the
12 end the following new paragraph:

13 “(3) *REVISED AMOUNTS AFTER INCREASE.*—Not-
14 *withstanding paragraph (2), for each academic year*
15 *after academic year 2006–2007, the Secretary shall*
16 *publish in the Federal Register a revised income pro-*
17 *tection allowance for the purpose of section*
18 *475(g)(2)(D). Such revised allowance shall be devel-*
19 *oped by increasing the dollar amount contained in*
20 *such section by a percentage equal to the estimated*
21 *percentage increase in the Consumer Price Index (as*
22 *determined by the Secretary) between December 2005*
23 *and the December next preceding the beginning of*
24 *such academic year, and rounding the result to the*
25 *nearest \$10.”.*

1 (3) *EFFECTIVE DATE.*—*The amendments made*
 2 *by this subsection shall apply with respect to deter-*
 3 *minations of need for periods of enrollment beginning*
 4 *on or after July 1, 2006.*

5 (b) *EMPLOYMENT EXPENSE ALLOWANCE.*—*Section*
 6 *478(h) (20 U.S.C. 1087rr(h)) is amended—*

7 (1) *by striking “476(b)(4)(B),”; and*

8 (2) *by striking “meals away from home, apparel*
 9 *and upkeep, transportation, and housekeeping serv-*
 10 *ices” and inserting “food away from home, apparel,*
 11 *transportation, and household furnishings and oper-*
 12 *ations”.*

13 (c) *DISCRETION OF STUDENT FINANCIAL AID ADMIN-*
 14 *ISTRATORS.*—*Section 479A(a) (20 U.S.C. 1087t(a)) is*
 15 *amended—*

16 (1) *by striking “(a) IN GENERAL.—” and insert-*
 17 *ing the following:*

18 “*(a) AUTHORITY TO MAKE ADJUSTMENTS.—*

19 “*(1) ADJUSTMENTS FOR SPECIAL CIR-*
 20 *CUMSTANCES.—*”;

21 (2) *by inserting before “Special circumstances*
 22 *may” the following:*

23 “*(2) SPECIAL CIRCUMSTANCES DEFINED.—*”;

24 (3) *by inserting “a student’s status as a ward of*
 25 *the court at any time prior to attaining 18 years of*

1 *age, a student’s status as an individual who was*
 2 *adopted at or after age 13, a student’s status as a*
 3 *homeless or unaccompanied youth (as defined in sec-*
 4 *tion 725 of the McKinney-Vento Homeless Assistance*
 5 *Act),” after “487,”;*

6 *(4) by inserting before “Adequate documenta-*
 7 *tion” the following:*

8 *“(3) DOCUMENTATION AND USE OF SUPPLE-*
 9 *MENTARY INFORMATION.—”;* and

10 *(5) by inserting before “No student” the fol-*
 11 *lowing:*

12 *“(4) FEES FOR SUPPLEMENTARY INFORMATION*
 13 *PROHIBITED.—”.*

14 *(d) TREATING ACTIVE DUTY MEMBERS OF THE*
 15 *ARMED FORCES AS INDEPENDENT STUDENTS.—Section*
 16 *480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting*
 17 *before the semicolon at the end the following: “or is cur-*
 18 *rently serving on active duty in the Armed Forces for other*
 19 *than training purposes”.*

20 *(e) EXCLUDABLE INCOME.—Section 480(e) (20 U.S.C.*
 21 *1087vv(e)) is amended—*

22 *(1) by striking “and” at the end of paragraph*
 23 *(3);*

24 *(2) by striking the period at the end of para-*
 25 *graph (4) and inserting “; and”;* and

1 (3) *by adding at the end the following new para-*
2 *graph:*

3 “*(5) any part of any distribution from a quali-*
4 *fied tuition program established under section 529 of*
5 *the Internal Revenue Code of 1986 that is not includ-*
6 *able in gross income under such section 529.”*

7 (f) *TREATMENT OF SAVINGS PLANS.—*

8 (1) *AMENDMENT.—Section 480(f) (20 U.S.C.*
9 *1087vv(f)) is amended—*

10 (A) *in paragraph (1), by inserting “quali-*
11 *fied tuition programs established under section*
12 *529 of the Internal Revenue Code of 1986 (26*
13 *U.S.C. 529), except as provided in paragraph*
14 *(2),” after “tax shelters,”;*

15 (B) *by redesignating paragraph (2) as*
16 *paragraph (3); and*

17 (C) *by inserting after paragraph (1) the fol-*
18 *lowing new paragraph:*

19 “*(2) A qualified tuition program shall not be consid-*
20 *ered an asset of a dependent student under section 475 of*
21 *this part. The value of a qualified tuition program for pur-*
22 *poses of determining the assets of parents or independent*
23 *students shall be—*

24 “*(A) the refund value of any tuition credits or*
25 *certificates purchased under section 529 of the Inter-*

1 *nal Revenue Code of 1986 (26 U.S.C. 529) on behalf*
 2 *of a beneficiary; or*

3 *“(B) the current balance of any account which*
 4 *is established under such section for the purpose of*
 5 *meeting the qualified higher education expenses of the*
 6 *designated beneficiary of the account.”.*

7 *(2) CONFORMING AMENDMENT.—Section 480(j)*
 8 *(20 U.S.C. 1087vv(j)) is amended—*

9 *(A) by striking “; TUITION PREPAYMENT*
 10 *PLANS” in the heading of such subsection;*

11 *(B) by striking paragraph (2);*

12 *(C) in paragraph (3), by inserting “, or a*
 13 *distribution that is not includable in gross in-*
 14 *come under section 529 of such Code,” after*
 15 *“1986”; and*

16 *(D) by redesignating paragraph (3) as*
 17 *paragraph (2).*

18 *(g) TREATMENT OF FAMILY OWNERSHIP OF SMALL*
 19 *BUSINESSES.—Section 480(f)(3) of the Higher Education*
 20 *Act of 1965 (20 U.S.C. 1087vv(f)(3)), as redesignated by*
 21 *subsection (f) of this section, is amended—*

22 *(1) in subparagraph (A), by striking “or”;*

23 *(2) in subparagraph (B), by striking the period*
 24 *at the end and inserting “; or”; and*

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(C) a small business with not more than 100
4 full-time or full-time equivalent employees (or any
5 part of such a small business) that is owned and con-
6 trolled by the family.”.

7 (h) *DESIGNATED ASSISTANCE*.—Section 480(j) (20
8 U.S.C. 1087vv(j)) is amended by adding after paragraph
9 (2) (as redesignated by subsection (f)(2)(D) of this section)
10 the following new paragraph:

11 “(3) Notwithstanding paragraph (1) and section 472,
12 assistance not received under this title may be excluded
13 from both estimated financial assistance and cost of attend-
14 ance, if that assistance is provided by a State and is des-
15 ignated by such State to offset a specific component of the
16 cost of attendance. If that assistance is excluded from either
17 estimated financial assistance or cost of attendance, it shall
18 be excluded from both.”.

19 **SEC. 2127. DEFINITION OF ELIGIBLE PROGRAM.**

20 Section 481(b) (20 U.S.C. 1088(b)) is amended by add-
21 ing at the end the following new paragraph:

22 “(3) For purposes of this title, an eligible program in-
23 cludes an instructional program that utilizes direct assess-
24 ment of student learning, or recognizes the direct assessment
25 of student learning, in lieu of credit hours or clock hours

1 *as the measure of student learning. In the case of a program*
2 *being determined eligible for the first time under this para-*
3 *graph, such determination shall be made by the Secretary*
4 *before such program is considered to be eligible. The Sec-*
5 *retary shall provide an annual report to Congress identi-*
6 *fying the programs made eligible under this paragraph.”.*

7 **SEC. 2128. DISTANCE EDUCATION.**

8 (a) *DISTANCE EDUCATION: ELIGIBLE PROGRAM.—*
9 *Section 481(b) (20 U.S.C. 1088(b)) is amended by adding*
10 *after paragraph (3) (as added by section 2127 of this Act)*
11 *the following new paragraph:*

12 “(4) *An otherwise eligible program that is offered in*
13 *whole or in part through telecommunications is eligible for*
14 *the purposes of this title if the program is offered by an*
15 *institution, other than a foreign institution, that has been*
16 *evaluated and determined (before or after the date of enact-*
17 *ment of this paragraph) to have the capability to effectively*
18 *deliver distance education programs by an accrediting*
19 *agency or association that—*

20 “(A) *is recognized by the Secretary under sub-*
21 *part 2 of Part H; and*

22 “(B) *has evaluation of distance education pro-*
23 *grams within the scope of its recognition, as described*
24 *in section 496(n)(3).”.*

1 (b) *CORRESPONDENCE COURSES.*—Section 484(l)(1)
 2 (20 U.S.C. 1091(l)(1)) is amended—

3 (1) in subparagraph (A)—

4 (A) by striking “for a program of study of
 5 1 year or longer”; and

6 (B) by striking “unless the total” and all
 7 that follows through “courses at the institution”;
 8 and

9 (2) by amending subparagraph (B) to read as
 10 follows:

11 “(B) *EXCEPTION.*—Subparagraph (A) does
 12 not apply to an institution or school described in
 13 section 3(3)(C) of the Carl D. Perkins Vocational
 14 and Technical Education Act of 1998.”.

15 **SEC. 2129. STUDENT ELIGIBILITY.**

16 (a) *FRAUD: REPAYMENT REQUIRED.*—Section 484(a)
 17 (20 U.S.C. 1091(a)) is amended—

18 (1) by striking the period at the end of para-
 19 graph (5) and inserting “; and”; and

20 (2) by adding at the end the following new para-
 21 graph:

22 “(6) if the student has been convicted of, or has
 23 pled *nolo contendere* or guilty to, a crime involving
 24 fraud in obtaining funds under this title, have com-
 25 pleted the repayment of such funds to the Secretary,

1 *or to the holder in the case of a loan under this title*
2 *obtained by fraud.”.*

3 (b) *TECHNICAL AMENDMENT.*—Section 484(b)(5) (20
4 *U.S.C. 1091(b)(5)*) is amended by inserting “or parent (on
5 *behalf of a student)*” after “*student*”.

6 (c) *LOAN INELIGIBILITY BASED ON INVOLUNTARY*
7 *CIVIL COMMITMENT FOR SEXUAL OFFENSES.*—Section
8 *484(b)(5) (20 U.S.C. 1091(b)(5))* is further amended by in-
9 *serting before the period the following: “, and no student*
10 *who is subject to an involuntary civil commitment upon*
11 *completion of a period of incarceration for a sexual offense*
12 *(as determined under regulations of the Secretary) is eligi-*
13 *ble to receive a loan under this title”.*

14 (d) *FREELY ASSOCIATED STATES.*—Section 484(j) (20
15 *U.S.C. 1091(j)*) is amended by inserting “and shall be eligi-
16 *ble only for assistance under subpart 1 of part A there-*
17 *after,”* after “*part C,*”.

18 (e) *VERIFICATION OF INCOME DATE.*—Paragraph (1)
19 *of section 484(q) (20 U.S.C. 1091(q))* is amended to read
20 *as follows:*

21 “(1) *CONFIRMATION WITH IRS.*—The Secretary
22 *of Education, in cooperation with the Secretary of the*
23 *Treasury, is authorized to confirm with the Internal*
24 *Revenue Service the information specified in section*
25 *6103(l)(13) of the Internal Revenue Code of 1986 re-*

1 ported by applicants (including parents) under this
 2 title on their Federal income tax returns for the pur-
 3 pose of verifying the information reported by appli-
 4 cants on student financial aid applications.”.

5 (f) *SUSPENSION OF ELIGIBILITY FOR DRUG OF-*
 6 *FENSES.*—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is
 7 amended by striking everything preceding the table and in-
 8 serting the following:

9 “(1) *IN GENERAL.*—A student who is convicted
 10 of any offense under any Federal or State law involv-
 11 ing the possession or sale of a controlled substance for
 12 conduct that occurred during a period of enrollment
 13 for which the student was receiving any grant, loan,
 14 or work assistance under this title shall not be eligible
 15 to receive any grant, loan, or work assistance under
 16 this title from the date of that conviction for the pe-
 17 riod of time specified in the following table:”.

18 **SEC. 2130. INSTITUTIONAL REFUNDS.**

19 Section 484B (20 U.S.C. 1091b) is amended—

20 (1) in subsection (a)(1), by inserting “subpart 4
 21 of part A or” after “received under”;

22 (2) in subsection (a)(2), by striking “takes a
 23 leave” and by inserting “takes one or more leaves”;

1 (3) in subsection (a)(3)(B)(ii), by inserting “(as
2 determined in accordance with subsection (d))” after
3 “student has completed”;

4 (4) in subsection (a)(4), by amending subpara-
5 graph (A) to read as follows:

6 “(A) *IN GENERAL.*—After determining the
7 eligibility of the student for a late disbursement
8 or post-withdrawal disbursement (as required in
9 regulations prescribed by the Secretary), the in-
10 stitution of higher education shall contact the
11 borrower and obtain confirmation that the loan
12 funds are still required by the borrower. In mak-
13 ing such contact, the institution shall explain to
14 the borrower the borrower’s obligation to repay
15 the funds following any such disbursement. The
16 institution shall document in the borrower’s file
17 the result of such contact and the final deter-
18 mination made concerning such disbursement.”;

19 (5) in subsection (b)(1), by inserting “no later
20 than 45 days from the determination of withdrawal”
21 after “return”;

22 (6) in subsection (b)(2), by amending subpara-
23 graph (C) to read as follows:

24 “(C) *GRANT OVERPAYMENT REQUIRE-*
25 *MENTS.*—

1 “(i) *IN GENERAL.*—Notwithstanding
2 subparagraphs (A) and (B), a student shall
3 only be required to return grant assistance
4 in the amount (if any) by which—

5 “(I) the amount to be returned by
6 the student (as determined under sub-
7 paragraphs (A) and (B)), exceeds

8 “(II) 50 percent of the total grant
9 assistance received by the student
10 under this title for the payment period
11 or period of enrollment.

12 “(ii) *MINIMUM.*—A student shall not
13 be required to return amounts of \$50 or
14 less.”; and

15 (7) in subsection (d), by striking “(a)(3)(B)(i)”
16 and inserting “(a)(3)(B)”.

17 **SEC. 2131. COLLEGE ACCESS INITIATIVE.**

18 Part G is further amended by inserting after section
19 485C (20 U.S.C. 1092c) the following new section:

20 **“SEC. 485D. COLLEGE ACCESS INITIATIVE.**

21 “(a) *STATE-BY-STATE INFORMATION.*—The Secretary
22 shall direct each guaranty agency with which the Secretary
23 has an agreement under section 428(c) to provide to the
24 Secretary the information necessary for the development of
25 web links and access for students and families to a com-

1 *prehensive listing of the postsecondary education opportuni-*
2 *ties, programs, publications, Internet Web sites, and other*
3 *services available in the States for which such agency serves*
4 *as the designated guarantor.*

5 “(b) *GUARANTY AGENCY ACTIVITIES.*—

6 “(1) *PLAN AND ACTIVITY REQUIRED.*—*Each*
7 *guaranty agency with which the Secretary has an*
8 *agreement under section 428(c) shall develop a plan*
9 *and undertake the activity necessary to gather the in-*
10 *formation required under subsection (a) and to make*
11 *such information available to the public and to the*
12 *Secretary in a form and manner as prescribed by the*
13 *Secretary.*

14 “(2) *ACTIVITIES.*—*Each guaranty agency shall*
15 *undertake such activities as are necessary to promote*
16 *access to postsecondary education for students through*
17 *providing information on college planning, career*
18 *preparation, and paying for college. The guaranty*
19 *agency shall publicize such information and coordi-*
20 *nate such activities with other entities that either pro-*
21 *vide or distribute such information in the States for*
22 *which such guaranty agency serves as the designated*
23 *guarantor.*

24 “(3) *FUNDING.*—*The activities required by this*
25 *section may be funded from the guaranty agency’s op-*

1 *erating account established pursuant to section 422B*
2 *and, to the extent funds remain, from earnings on the*
3 *restricted account established pursuant to section*
4 *422(h)(4).*

5 *“(c) ACCESS TO INFORMATION.—*

6 *“(1) SECRETARY’S RESPONSIBILITY.—The Sec-*
7 *retary shall ensure the availability of the information*
8 *provided by the guaranty agencies in accordance with*
9 *this section to students, parents, and other interested*
10 *individuals, through web links or other methods pre-*
11 *scribed by the Secretary.*

12 *“(2) GUARANTY AGENCY RESPONSIBILITY.—The*
13 *guaranty agencies shall ensure that the information*
14 *required by this section is available without charge in*
15 *printed format for students and parents requesting*
16 *such information.*

17 *“(3) PUBLICITY.—Within 270 days after the date*
18 *of enactment of the Higher Education Budget Rec-*
19 *onciliation Act of 2005, the Secretary and guaranty*
20 *agencies shall publicize the availability of the infor-*
21 *mation required by this section, with special empha-*
22 *sis on ensuring that populations that are tradition-*
23 *ally underrepresented in postsecondary education are*
24 *made aware of the availability of such information.”.*

1 **SEC. 2132. CANCELLATION OF STUDENT LOAN INDEBTED-**
2 **NESS FOR SURVIVORS OF VICTIMS OF THE**
3 **SEPTEMBER 11, 2001, ATTACKS.**

4 (a) *DEFINITIONS.*—*For purposes of this section:*

5 (1) *ELIGIBLE PUBLIC SERVANT.*—*The term “eli-*
6 *gible public servant” means an individual who, as de-*
7 *termined in accordance with regulations of the Sec-*
8 *retary—*

9 (A) *served as a police officer, firefighter,*
10 *other safety or rescue personnel, or as a member*
11 *of the Armed Forces; and*

12 (B) *died (or dies) or became (or becomes)*
13 *permanently and totally disabled due to injuries*
14 *suffered in the terrorist attacks on September 11,*
15 *2001.*

16 (2) *ELIGIBLE VICTIM.*—*The term “eligible vic-*
17 *tim” means an individual who, as determined in ac-*
18 *cordance with regulations of the Secretary, died (or*
19 *dies) or became (or becomes) permanently and totally*
20 *disabled due to injuries suffered in the terrorist at-*
21 *tacks on September 11, 2001.*

22 (3) *ELIGIBLE PARENT.*—*The term “eligible par-*
23 *ent” means the parent of an eligible victim if—*

24 (A) *the parent owes a Federal student loan*
25 *that is a consolidation loan that was used to*

1 *repay a PLUS loan incurred on behalf of such*
 2 *eligible victim; or*

3 *(B) the parent owes a Federal student loan*
 4 *that is a PLUS loan incurred on behalf of an el-*
 5 *igible victim.*

6 (4) *SECRETARY.*—*The term “Secretary” means*
 7 *the Secretary of Education.*

8 (5) *FEDERAL STUDENT LOAN.*—*The term “Fed-*
 9 *eral student loan” means any loan made, insured, or*
 10 *guaranteed under part B, D, or E of title IV of the*
 11 *Higher Education Act of 1965.*

12 (b) *RELIEF FROM INDEBTEDNESS.*—

13 (1) *IN GENERAL.*—*The Secretary shall provide*
 14 *for the discharge or cancellation of—*

15 *(A) the Federal student loan indebtedness of*
 16 *the spouse of an eligible public servant, as deter-*
 17 *mined in accordance with regulations of the Sec-*
 18 *retary, including any consolidation loan that*
 19 *was used jointly by the eligible public servant*
 20 *and his or her spouse to repay the Federal stu-*
 21 *dent loans of the spouse and the eligible public*
 22 *servant;*

23 *(B) the portion incurred on behalf of the eli-*
 24 *gible victim (other than an eligible public serv-*
 25 *ant), of a Federal student loan that is a consoli-*

1 *dation loan that was used jointly by the eligible*
2 *victim and his or her spouse, as determined in*
3 *accordance with regulations of the Secretary, to*
4 *repay the Federal student loans of the eligible*
5 *victim and his or her spouse;*

6 *(C) the portion of the consolidation loan in-*
7 *debtedness of an eligible parent that was in-*
8 *curring on behalf of an eligible victim; and*

9 *(D) the PLUS loan indebtedness of an eligi-*
10 *ble parent that was incurred on behalf of an eli-*
11 *gible victim.*

12 *(2) METHOD OF DISCHARGE OR CANCELLA-*
13 *TION.—A loan required to be discharged or canceled*
14 *under paragraph (1) shall be discharged or canceled*
15 *by the method used under section 437(a), 455(a)(1),*
16 *or 464(c)(1)(F) of the Higher Education Act of 1965*
17 *(20 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)),*
18 *whichever is applicable to such loan.*

19 *(c) FACILITATION OF CLAIMS.—The Secretary shall—*

20 *(1) establish procedures for the filing of applica-*
21 *tions for discharge or cancellation under this section*
22 *by regulations that shall be prescribed and published*
23 *within 90 days after the date of enactment of this Act*
24 *and without regard to the requirements of section 553*
25 *of title 5, United States Code; and*

1 (2) *take such actions as may be necessary to*
2 *publicize the availability of discharge or cancellation*
3 *of Federal student loan indebtedness under this sec-*
4 *tion.*

5 (d) *AVAILABILITY OF FUNDS FOR PAYMENTS.—Funds*
6 *available for the purposes of making payments to lenders*
7 *in accordance with section 437(a) for the discharge of in-*
8 *debtedness of deceased or disabled individuals shall be avail-*
9 *able for making payments under section 437(a) to lenders*
10 *of loans as required by this section.*

11 (e) *APPLICABLE TO OUTSTANDING DEBT.—The provi-*
12 *sions of this section shall be applied to discharge or cancel*
13 *only Federal student loans (including consolidation loans)*
14 *on which amounts were owed on September 11, 2001. Noth-*
15 *ing in this section shall be construed to authorize any re-*
16 *funding of any repayment of a loan.*

17 **SEC. 2133. INDEPENDENT EVALUATION OF DISTANCE EDU-**
18 **CATION PROGRAMS.**

19 (a) *INDEPENDENT EVALUATION.—The Secretary of*
20 *Education shall enter into an agreement with the National*
21 *Academy of Sciences to conduct a scientifically correct and*
22 *statistically valid evaluation of the quality of distance edu-*
23 *cation programs, as compared to campus-based education*
24 *programs, at institutions of higher education. Such evalua-*
25 *tion shall include—*

1 (1) *identification of the elements by which the*
2 *quality of distance education, as compared to cam-*
3 *pus-based education, can be assessed, including ele-*
4 *ments such as subject matter, interactivity, and stu-*
5 *dent outcomes;*

6 (2) *identification of distance and campus-based*
7 *education program success, with respect to student*
8 *achievement, in relation to the mission of the institu-*
9 *tion of higher education; and*

10 (3) *identification of the types of students (in-*
11 *cluding classification of types of students based on*
12 *student age) who most benefit from distance education*
13 *programs, the types of students who most benefit from*
14 *campus-based education programs, and the types of*
15 *students who do not benefit from distance education*
16 *programs, by assessing elements including access to*
17 *higher education, job placement rates, undergraduate*
18 *graduation rates, and graduate and professional de-*
19 *gree attainment rates.*

20 (b) *SCOPE.*—*The National Academy of Sciences shall*
21 *select for participation in the evaluation under subsection*
22 (i) *a diverse group of institutions of higher education with*
23 *respect to size, mission, and geographic distribution.*

24 (c) *INTERIM AND FINAL REPORTS.*—*The agreement*
25 *under subsection (a) shall require that the National Acad-*

1 *emy of Sciences submit to the Secretary of Education, the*
2 *Committee on Health, Education, Labor and Pensions of*
3 *the Senate, and the Committee on Education and the Work-*
4 *force of the House of Representatives—*

5 (1) *an interim report regarding the evaluation*
6 *under subsection (a) not later than December 31,*
7 *2007; and*

8 (2) *a final report regarding such evaluation not*
9 *later than December 31, 2009.*

10 **SEC. 2134. DISBURSEMENT OF STUDENT LOANS.**

11 *Section 422(d) of the Higher Education Amendments*
12 *of 1998 (Public Law 105–244; 112 Stat. 1696) is amended*
13 *by adding at the end the following new sentence: “Such*
14 *amendments shall also be effective on and after July 1,*
15 *2006.”.*

16 **PART 2—HIGHER EDUCATION RELIEF**

17 **SEC. 2141. REFERENCES.**

18 *References in this part to “the Act” are references to*
19 *the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).*

20 **SEC. 2142. WAIVERS AND MODIFICATIONS.**

21 *Notwithstanding any other provision of law, unless en-*
22 *acted with specific reference to this section, the Secretary*
23 *of Education is authorized to waive or modify any statu-*
24 *tory or regulatory provision applicable to the student finan-*
25 *cial assistance programs under title IV of the Act, or any*

1 *student or institutional eligibility provisions in the Act, as*
2 *the Secretary of Education deems necessary in connection*
3 *with a Gulf hurricane disaster to ensure that—*

4 (1) *the calculation of expected family contribu-*
5 *tion under section 474 of the Act used in the deter-*
6 *mination of need for student financial assistance*
7 *under title IV of the Act for any affected student (and*
8 *the determination of such need for his or her family,*
9 *if applicable), is modified to reflect any changes in*
10 *the financial condition of such affected student and*
11 *his or her family resulting from a Gulf hurricane dis-*
12 *aster; and*

13 (2) *institutions of higher education, systems of*
14 *institutions, or consortia of institutions that are lo-*
15 *cated in an area affected by a Gulf hurricane dis-*
16 *aster, or that are serving affected students, are eligi-*
17 *ble, notwithstanding section 486(d) of the Act, to*
18 *apply for participation in the distance education*
19 *demonstration program under section 486 of the Act,*
20 *except that the Secretary of Education shall include*
21 *in reports under section 486(f) of the Act an identi-*
22 *fication of those institutions, systems, and consortia*
23 *that were granted participation in the demonstration*
24 *program due to a Gulf hurricane disaster.*

1 **SEC. 2143. CANCELLATION OF INSTITUTIONAL REPAYMENT**
2 **BY COLLEGES AND UNIVERSITIES AFFECTED**
3 **BY A GULF HURRICANE DISASTER.**

4 *Notwithstanding any provision of title IV of the Act*
5 *or any regulation issued thereunder, the Secretary of Edu-*
6 *cation shall cancel any obligation of an affected institution*
7 *to return or repay any funds the institution received before*
8 *the date of enactment of this Act for, or on behalf of, its*
9 *students under subpart 1 or 3 of part A or parts B, C,*
10 *D, or E of title IV of the Act for any cancelled enrollment*
11 *period.*

12 **SEC. 2144. CANCELLATION OF STUDENT LOANS FOR CAN-**
13 **CALLED ENROLLMENT PERIODS.**

14 (a) *LOAN FORGIVENESS AUTHORIZED.*—*Notwith-*
15 *standing any provision of title IV of the Act, the Secretary*
16 *shall discharge all loan amounts under parts B and D of*
17 *title IV of the Act, and cancel any loan made under part*
18 *E of such title, disbursed to, or on behalf of, an affected*
19 *student for a cancelled enrollment period.*

20 (b) *REIMBURSEMENT.*—*The Secretary of Education*
21 *shall—*

22 (1) *reimburse each affected institution for any*
23 *amounts discharged under subsection (a) with respect*
24 *to a loan under part E of title IV of the Act in the*
25 *same manner as is required by section 465(b) of the*

1 *Act with respect to a loan cancelled under section*
 2 *465(a) of the Act; and*

3 (2) *reimburse lenders for the purpose of dis-*
 4 *charging any loan amounts disbursed to, or on behalf*
 5 *of, an affected student under part B of title IV of the*
 6 *Act for a cancelled enrollment period.*

7 (c) *LIMITATION ON CONSOLIDATION LOANS.*—*A loan*
 8 *amount for a loan made under section 428C of the Act or*
 9 *a Federal Direct Consolidation Loan may be eligible for*
 10 *discharge under this section only to the extent that such*
 11 *loan amount was used to repay a loan to an affected student*
 12 *for a cancelled enrollment period.*

13 (d) *CONSTRUCTION.*—*Nothing in this section shall be*
 14 *construed to authorize any refunding of any repayment of*
 15 *a loan.*

16 **SEC. 2145. TEMPORARY DEFERMENT OF STUDENT LOAN RE-**
 17 **PAYMENT.**

18 *An affected individual who is a borrower of a qualified*
 19 *student loan or a qualified parent loan shall be granted*
 20 *a deferment, not in excess of 6 months, during which peri-*
 21 *odic installments of principal need not be paid, and inter-*
 22 *est—*

23 (1) *shall accrue and be paid by the Secretary, in*
 24 *the case of a loan made under section 428, 428B,*
 25 *428C, or 428H of the Act;*

1 (2) shall accrue and be paid by the Secretary to
 2 the Perkins loan fund held by the institution of higher
 3 education that made the loan, in the case of a loan
 4 made under part E of title IV of the Act; and

5 (3) shall not accrue, in the case of a Federal Di-
 6 rect Loan made under part D of such title.

7 **SEC. 2146. NO AFFECT ON GRANT AND LOAN LIMITS.**

8 Notwithstanding any provision of title IV of the Act
 9 or any regulation issued thereunder, no grant or loan funds
 10 received by an affected student under title IV of the Act
 11 for a cancelled enrollment period shall be counted against
 12 such affected student's annual or aggregate grant or loan
 13 limits for the receipt of grants or loans under that title.

14 **SEC. 2147. TEACHER LOAN RELIEF.**

15 The Secretary of Education may waive the require-
 16 ment of sections 428J(b)(1) and 460(b)(1)(A) of the Higher
 17 Education Act of 1965 that the 5 years of qualifying service
 18 be consecutive academic years for any teacher whose em-
 19 ployment was interrupted if—

20 (1) the teacher was employed in qualifying serv-
 21 ice, at the time of a Gulf hurricane disaster, in a
 22 school located in an area affected by a Gulf hurricane
 23 disaster; and

24 (2) the teacher resumes qualifying service not
 25 later than the beginning of academic year 2006–2007

1 *in that school or any other school in which employ-*
2 *ment is qualifying service under such section.*

3 **SEC. 2148. EXPANDING INFORMATION DISSEMINATION RE-**
4 **GARDING ELIGIBILITY FOR PELL GRANTS.**

5 *(a) IN GENERAL.—The Secretary of Education shall*
6 *make special efforts, in conjunction with State efforts, to*
7 *notify affected students and if applicable, their parents, who*
8 *qualify for means-tested Federal benefit programs, of their*
9 *potential eligibility for a maximum Pell Grant, and shall*
10 *disseminate such informational materials as the Secretary*
11 *of Education deems appropriate.*

12 *(b) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—*
13 *For the purpose of this section, the term “means-tested Fed-*
14 *eral benefit program” means a mandatory spending pro-*
15 *gram of the Federal Government, other than a program*
16 *under the Act, in which eligibility for the program’s bene-*
17 *fits, or the amount of such benefits, or both, are determined*
18 *on the basis of income or resources of the individual or fam-*
19 *ily seeking the benefit, and may include such programs as*
20 *the supplemental security income program under title XVI*
21 *of the Social Security Act, the food stamp program under*
22 *the Food Stamp Act of 1977, the free and reduced price*
23 *school lunch program established under the Richard B. Rus-*
24 *sell National School Lunch Act, the temporary assistance*
25 *to needy families program established under part A of title*

1 *IV of the Social Security Act, and the women, infants, and*
2 *children program established under section 17 of the Child*
3 *Nutrition Act of 1966, and other programs identified by*
4 *the Secretary of Education.*

5 **SEC. 2149. PROCEDURES.**

6 (a) *DEADLINES AND PROCEDURES.*—Sections 482(c)
7 and 492 of the Act (20 U.S.C. 1089(c), 1098a) shall not
8 apply to any waivers, modifications, or actions initiated
9 by the Secretary of Education under this part.

10 (b) *CASE-BY-CASE BASIS.*—The Secretary of Edu-
11 cation is not required to exercise any waiver or modifica-
12 tion authority under this part on a case-by-case basis.

13 **SEC. 2150. TERMINATION OF AUTHORITY.**

14 *The authority of the Secretary of Education to issue*
15 *wavers or modifications under this part shall expire at the*
16 *conclusion of the 2005–2006 academic year, but the expira-*
17 *tion of such authority shall not affect the continuing valid-*
18 *ity of any such waivers or modifications after such aca-*
19 *demic year.*

20 **SEC. 2151. DEFINITIONS.**

21 *For the purposes of this part, the following terms have*
22 *the following meanings:*

23 (1) *AFFECTED INDIVIDUAL.*—The term “affected
24 individual” means an individual who has applied for

1 *or received student financial assistance under title IV*
2 *of the Higher Education Act of 1965, and—*

3 *(A) who is an affected student; or*

4 *(B) whose primary place of employment or*
5 *residency was, as of August 29, 2005, in an area*
6 *affected by a Gulf hurricane disaster.*

7 *(2) AFFECTED INSTITUTION.—The term “affected*
8 *institution” means an institution of higher education*
9 *that—*

10 *(A) is located in an area affected by a Gulf*
11 *hurricane disaster; and*

12 *(B) has temporarily ceased operations as a*
13 *consequence of a Gulf hurricane disaster, as de-*
14 *termined by the Secretary of Education.*

15 *(3) AFFECTED STATE.—The term “affected*
16 *State” means the State of Alabama, Florida, Lou-*
17 *isiana, Mississippi, or Texas.*

18 *(4) AFFECTED STUDENT.—The term “affected*
19 *student” means an individual who has applied for or*
20 *received student financial assistance under title IV of*
21 *the Higher Education Act of 1965, and who—*

22 *(A) was enrolled or accepted for enrollment,*
23 *as of August 29, 2005, at an institution of high-*
24 *er education in an area affected by a Gulf hurri-*
25 *cane disaster;*

1 (B) was a dependent student enrolled or ac-
2 cepted for enrollment at an institution of higher
3 education that is not in an area affected by a
4 Gulf hurricane disaster, but whose parents re-
5 sided or were employed, as of August 29, 2005,
6 in an area affected by a Gulf hurricane disaster;
7 or

8 (C) was enrolled or accepted for enrollment
9 at an institution of higher education, as of Au-
10 gust 29, 2005, and whose attendance was inter-
11 rupted because of a Gulf hurricane disaster.

12 (5) *AREA AFFECTED BY A GULF HURRICANE DIS-*
13 *ASTER.*—The term “area affected by a Gulf hurricane
14 disaster” means a county or parish, in an affected
15 State, that has been designated by the Federal Emer-
16 gency Management Agency for disaster assistance for
17 individuals and households as a result of Hurricane
18 Katrina or Hurricane Rita.

19 (6) *CANCELLED ENROLLMENT PERIOD.*—The
20 term “cancelled enrollment period” means any period
21 of enrollment at an affected institution during the
22 academic year 2005.

23 (7) *GULF HURRICANE DISASTER.*—The term
24 “Gulf hurricane disaster” means a major disaster
25 that the President declared to exist, in accordance

1 *with section 401 of the Robert T. Stafford Disaster*
 2 *Relief and Emergency Assistance Act, and that was*
 3 *caused by Hurricane Katrina or Hurricane Rita.*

4 (8) *INSTITUTION OF HIGHER EDUCATION.*—*The*
 5 *term “institution of higher education” has the mean-*
 6 *ing given such term in section 102 of the Higher Edu-*
 7 *cation Act of 1965, except that the term does not in-*
 8 *clude institutions under subsection (a)(1)(C) of that*
 9 *section.*

10 (9) *QUALIFIED STUDENT LOAN.*—*The term*
 11 *“qualified student loan” means any loan made, in-*
 12 *sured, or guaranteed under part B, D, or E of title*
 13 *IV of the Higher Education Act of 1965, other than*
 14 *a loan under section 428B of such title or a Federal*
 15 *Direct Plus loan.*

16 (10) *QUALIFIED PARENT LOAN.*—*The term*
 17 *“qualified parent loan” means a loan made under*
 18 *section 428B of title IV of the Higher Education Act*
 19 *of 1965 or a Federal Direct Plus loan.*

20 ***Subtitle C—Pensions***

21 ***SEC. 2201. INCREASES IN PBGC PREMIUMS.***

22 (a) *FLAT-RATE PREMIUMS.*—*Clause (i) of section*
 23 *4006(a)(3)(A) of the Employee Retirement Income Security*
 24 *Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by strik-*
 25 *ing “\$19” and inserting “\$30”.*

1 (b) *ADJUSTMENT FOR INFLATION.*—Paragraph (3) of
2 section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended
3 by adding at the end the following new subparagraph:

4 “(F) For each plan year beginning after 2006, there
5 shall be substituted for the \$30 dollar amount in subpara-
6 graph (A)(i) the amount equal to the product derived by
7 multiplying the premium rate, as in effect under this para-
8 graph immediately prior to such plan year for basic bene-
9 fits guaranteed by the corporation under section 4022 for
10 single-employer plans, by the ratio of—

11 “(i) the national average wage index (as defined
12 in section 209(k)(1) of the Social Security Act) for the
13 first of the 2 calendar years preceding the calendar
14 year in which such plan year begins, to

15 “(ii) the national average wage index (as so de-
16 fined) for the first of the 3 calendar years preceding
17 the calendar year in which the plan year begins,

18 with such product, if not a multiple of \$1, being rounded
19 to the next higher multiple of \$1 where such product is a
20 multiple of \$0.50 but not of \$1, and to the nearest multiple
21 of \$1 in any other case.”.

22 (c) *ADDITIONAL DISCRETIONARY INCREASE.*—Para-
23 graph (3) of section 4006(a) of such Act (as amended by
24 subsection (b) of this section) is further amended by adding
25 at the end the following new subparagraph:

1 “(G)(i) *The corporation may increase under this sub-*
2 *paragraph, effective for plan years commencing with or*
3 *during any calendar year after 2006, the premium rate oth-*
4 *erwise in effect under this section for basic benefits guaran-*
5 *teed by it under section 4022 for single-employer plans if*
6 *the corporation determines that such increase is necessary*
7 *to achieve actuarial soundness in the plan termination in-*
8 *surance program under this title.*

9 “(ii) *The amount of any premium rate described in*
10 *clause (i), as increased under this subparagraph for plan*
11 *years commencing with or during any calendar year, may*
12 *not exceed by more than 20 percent the amount of the pre-*
13 *mium rate, in effect under this paragraph for plan years*
14 *commencing with or during such calendar year for basic*
15 *benefits guaranteed by the corporation under section 4022*
16 *for single-employer plans, as determined for plan years*
17 *commencing with or during such calendar year without re-*
18 *gard to this subparagraph.*

19 “(iii) *The preceding provisions of this subparagraph*
20 *shall apply in connection with plan years commencing with*
21 *or during any calendar year only if—*

22 “(I) *the corporation transmits to each House of*
23 *the Congress and to the Comptroller General its pro-*
24 *posal for the increase in the premium rate for plan*
25 *years commencing with or during such calendar year,*

1 *subject to Congressional review under chapter 8 of*
2 *title 5 of the United States Code (relating to Congres-*
3 *sional review of agency rulemaking) not later than*
4 *120 calendar days after the beginning of the pre-*
5 *ceding calendar year, and*

6 *“(II) a joint resolution disapproving such in-*
7 *crease has not been enacted as provided in section 802*
8 *of such title, within the 60-day period described in*
9 *section 802(a) of such title.*

10 *The proposal transmitted by the corporation shall include*
11 *a description of the methodologies and assumptions used in*
12 *formulating its proposal. At the time of the transmittal of*
13 *any such proposal to each House of the Congress pursuant*
14 *to subclause (I), the corporation shall transmit a copy of*
15 *such proposal to the Committee on Education and the*
16 *Workforce and the Committee on Ways and Means of the*
17 *House of Representatives and the Committee on Health,*
18 *Education, Labor, and Pensions and the Committee on Fi-*
19 *nance of the Senate. Any such proposal shall, for purposes*
20 *of chapter 8 of such title 5, be treated as a rule which is*
21 *a major rule.”.*

22 *(d) PREMIUM RATE FOR CERTAIN TERMINATED SIN-*
23 *GLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of*
24 *such Act (29 U.S.C. 1306) is amended by adding at the*
25 *end the following:*

1 “(7) *PREMIUM RATE FOR CERTAIN TERMINATED SIN-*
2 *GLE-EMPLOYER PLANS.*—

3 “(A) *IN GENERAL.*—*If there is a termination of*
4 *a single-employer plan under clause (ii) or (iii) of*
5 *section 4041(c)(2)(B) or section 4042, there shall be*
6 *payable to the corporation, with respect to each appli-*
7 *cable 12-month period, a premium at a rate equal to*
8 *\$1,250 multiplied by the number of individuals who*
9 *were participants in the plan immediately before the*
10 *termination date. Such premium shall be in addition*
11 *to any other premium under this section.*

12 “(B) *SPECIAL RULE FOR PLANS TERMINATED IN*
13 *BANKRUPTCY REORGANIZATION.*—*If the plan is termi-*
14 *nated under 4041(c)(2)(B)(ii) or under section 4042*
15 *and, as of the termination date, a person who is (as*
16 *of such date) a contributing sponsor of the plan or a*
17 *member of such sponsor’s controlled group has filed or*
18 *has had filed against such person a petition seeking*
19 *reorganization in a case under title 11 of the United*
20 *States Code, or under any similar law of a State or*
21 *a political subdivision of a State (or a case described*
22 *in section 4041(c)(2)(B)(i) filed by or against such*
23 *person has been converted, as of such date, to such a*
24 *case in which reorganization is sought), subparagraph*

1 (A) shall not apply to such plan until the date of the
2 discharge of such person in such case.

3 “(C) *APPLICABLE 12-MONTH PERIOD.*—For pur-
4 poses of subparagraph (A)—

5 “(i) *IN GENERAL.*—The term ‘applicable 12-
6 month period’ means—

7 “(I) the 12-month period beginning
8 with the first month following the month in
9 which the termination date occurs, and

10 “(II) each of the first two 12-month pe-
11 riods immediately following the period de-
12 scribed in subclause (I).

13 “(ii) *PLANS TERMINATED IN BANKRUPTCY*
14 *REORGANIZATION.*—In any case in which the re-
15 quirements of subparagraph (B) are met in con-
16 nection with the termination of the plan with re-
17 spect to 1 or more persons described in such sub-
18 paragraph, the 12-month period described in
19 clause (i)(I) shall be the 12-month period begin-
20 ning with the first month following the month
21 which includes the earliest date as of which each
22 such person is discharged in the case described in
23 such clause in connection with such person.

24 “(D) *COORDINATION WITH SECTION 4007.*—

25 “(i) Notwithstanding section 4007—

1 “(I) premiums under this paragraph
2 shall be due within 30 days after the begin-
3 ning of any applicable 12-month period,
4 and

5 “(II) the designated payor shall be the
6 person who is the contributing sponsor as of
7 immediately before the termination date.

8 “(i) The fifth sentence of section 4007(a)
9 shall not apply in connection with premiums de-
10 termined under this paragraph.”.

11 (e) *CONFORMING AMENDMENTS.*—

12 (1) Section 4006(a)(2) of such Act (29 U.S.C.
13 1306(a)(2)) is amended, in the matter following sub-
14 paragraph (E), by inserting “paragraph (3)(G) of
15 this subsection or” after “Except as provided in”.

16 (2) Section 4006(b)(1) of such Act (29 U.S.C.
17 1306(b)(1)) is amended by inserting “or a proposal
18 for a premium rate increase under subsection
19 (a)(3)(G)” after “or (E)”.

20 (f) *EFFECTIVE DATES.*—

21 (1) *IN GENERAL.*—Except as otherwise provided
22 in this subsection, the amendments made by this sec-
23 tion shall apply to plan years beginning after Decem-
24 ber 31, 2005.

1 (2) *PREMIUM RATE FOR CERTAIN TERMINATED*
2 *SINGLE-EMPLOYER PLANS.—*

3 (A) *IN GENERAL.—Except as provided in*
4 *subparagraph (B), the amendment made by sub-*
5 *section (d) shall apply with respect to termi-*
6 *nations for which the termination date occurs on*
7 *or after the date of the enactment of this Act.*

8 (B) *TREATMENT OF CASES IN BANK-*
9 *RUPTCY.—In any case in which the requirements*
10 *of subparagraph (B) of section 4007(a)(7) of the*
11 *Employee Retirement Income Security Act of*
12 *1974 (as added by subsection (d)) are met in*
13 *connection with the termination of the plan with*
14 *respect to 1 or more persons described in such*
15 *subparagraph, the amendment made by sub-*
16 *section (d) shall apply with respect to any such*
17 *termination described in such subparagraph (B),*
18 *notwithstanding subparagraph (A) of this para-*
19 *graph, if the case under title 11, United States*
20 *Code, or under any similar law of a State or po-*
21 *litical subdivision of a State (referred to in such*
22 *subparagraph (B)) commenced after October 26,*
23 *2005.*

24 (3) *SPECIAL RULE IF SUBSEQUENT SAVINGS EN-*
25 *ACTED.—The amendments made by this section shall*

1 *not take effect if, after the date of enactment of this*
 2 *Act and before January 1, 2006, a Federal law is en-*
 3 *acted which—*

4 *(A) provides for decreases in Federal out-*
 5 *lays which in the aggregate are less than the de-*
 6 *creases in Federal outlays by reason of the*
 7 *amendments made by this section; and*

8 *(B) specifically provides that such decreases*
 9 *are to be in lieu of the decreases in Federal out-*
 10 *lays by reason of the amendments made by this*
 11 *section.*

12 **TITLE III—COMMITTEE ON**
 13 **ENERGY AND COMMERCE**

Subtitle A—Medicaid

Sec. 3100. Short title of subtitle; rule of construction with regard to Katrina evac-
uees.

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

Sec. 3101. Federal upper limit (FUL).

Sec. 3102. Collection and submission of utilization data for certain physician ad-
ministered drugs.

Sec. 3103. Improved regulation of drugs sold under a new drug application ap-
proved under section 505(c) of the Federal Food, Drug, and Cos-
metic Act.

Sec. 3104. Children’s hospital participation in section 340B drug discount pro-
gram.

Sec. 3105. Improving patient outcomes through greater reliance on science and
best practices.

CHAPTER 2—REFORM OF ASSET TRANSFER RULES

Sec. 3111. Lengthening look-back period; change in beginning date for period of
ineligibility.

Sec. 3112. Disclosure and treatment of annuities and of large transactions.

Sec. 3113. Application of “income-first” rule in applying community spouse’s in-
come before assets in providing support of community spouse.

Sec. 3114. Disqualification for long-term care assistance for individuals with sub-
stantial home equity.

Sec. 3115. Enforceability of continuing care retirement communities (CCRC) and life care community admission contracts.

CHAPTER 3—FLEXIBILITY IN COST SHARING AND BENEFITS

Sec. 3121. State option for alternative medicaid premiums and cost sharing.

Sec. 3122. Special rules for cost sharing for prescription drugs.

Sec. 3123. Emergency room copayments for non-emergency care.

Sec. 3124. Use of benchmark benefit packages.

Sec. 3125. State option to establish non-emergency medical transportation program.

Sec. 3126. Exempting women covered under breast or cervical cancer program.

CHAPTER 4—EXPANDED ACCESS TO CERTAIN BENEFITS

Sec. 3131. Expanded access to home and community-based services for the elderly and disabled.

Sec. 3132. Optional choice of self-directed personal assistance services (cash and counseling).

Sec. 3133. Expansion of State long-term care partnership program.

Sec. 3134. Health opportunity accounts.

CHAPTER 5—OTHER PROVISIONS

Sec. 3141. Increase in medicaid payments to insular areas.

Sec. 3142. Managed care organization provider tax reform.

Sec. 3143. Medicaid transformation grants.

Sec. 3144. Enhancing third party identification and payment.

Sec. 3145. Improved enforcement of documentation requirements.

Sec. 3146. Reforms of targeted case management.

Sec. 3147. Emergency services furnished by non-contract providers for medicaid managed care enrollees.

Sec. 3148. Adjustment in computation of medicaid FMAP to disregard an extraordinary employer pension contribution.

Subtitle B—Katrina Health Care Relief

Sec. 3201. Targeted medicaid relief for States affected by Hurricane Katrina.

Sec. 3202. State high risk health insurance pool funding.

Sec. 3203. Recomputation of HPSA, MUA, and MUP designations within Hurricane Katrina affected areas.

Sec. 3204. Waiver of certain requirements applicable to the provision of health care in areas impacted by Hurricane Katrina.

Sec. 3205. FMAP hold harmless for Katrina impact.

Subtitle C—Katrina and Rita Energy Relief

Sec. 3301. Hurricanes Katrina and Rita energy relief.

Subtitle D—Digital Television Transition

Sec. 3401. Short title.

Sec. 3402. Findings.

Sec. 3403. Analog spectrum recovery: hard deadline.

Sec. 3404. Auction of recovered spectrum.

Sec. 3405. Digital Television Conversion Fund.

Sec. 3406. Public Safety Interoperable Communications Fund.

Sec. 3407. NYC 9/11 Digital Transition Fund.

Sec. 3408. Low-power television transition provisions.

Sec. 3409. Consumer education regarding analog televisions.

Sec. 3410. Additional provisions.

Sec. 3411. Deployment of broadband wireless technologies.

Sec. 3412. Sense of Congress.

Sec. 3413. Band plan revision required.

1 ***Subtitle A—Medicaid***

2 ***SEC. 3100. SHORT TITLE OF SUBTITLE; RULE OF CONSTRUC-***
 3 ***TION WITH REGARD TO KATRINA EVACUEES.***

4 (a) *SHORT TITLE.*—*This subtitle may be cited as the*
 5 *“Medicaid Reconciliation Act of 2005”.*

6 (b) *RULE OF CONSTRUCTION WITH REGARD TO*
 7 *KATRINA EVACUEES.*—*None of the provisions of the fol-*
 8 *lowing chapters of this subtitle shall apply during the 11-*
 9 *month period beginning September 1, 2005, to individuals*
 10 *entitled to medical assistance under title XIX of the Social*
 11 *Security Act by reason of their residence in a parish in*
 12 *the State of Louisiana, or a county in the State of Mis-*
 13 *sissippi or Alabama, for which a major disaster has been*
 14 *declared in accordance with section 401 of the Robert T.*
 15 *Stafford Disaster Relief and Emergency Assistance Act (42*
 16 *U.S.C. 5170) as a result of Hurricane Katrina and which*
 17 *the President has determined, before September 14, 2005,*
 18 *warrants individual and public assistance from the Federal*
 19 *Government under such Act.*

1 **CHAPTER 1—PAYMENT FOR**
2 **PRESCRIPTION DRUGS**

3 **SEC. 3101. FEDERAL UPPER LIMIT (FUL).**

4 (a) *IN GENERAL.*—Subsection (e) of section 1927 of
5 *the Social Security Act (42 U.S.C. 1396r–8) is amended*
6 *to read as follows:*

7 “(e) *PHARMACY REIMBURSEMENT LIMITS.*—

8 “(1) *FEDERAL UPPER LIMIT FOR INGREDIENT*
9 *COST OF COVERED OUTPATIENT DRUGS.*—

10 “(A) *IN GENERAL.*—Subject to subpara-
11 *graph (B), no Federal financial participation*
12 *shall be available for payment for the ingredient*
13 *cost of a covered outpatient drug in excess of the*
14 *Federal upper limit for that drug established*
15 *under paragraph (2).*

16 “(B) *OPTIONAL CARVE OUT.*—A State may
17 *elect not to apply subparagraph (A) to payment*
18 *for either or both of the following:*

19 “(i) *Drugs dispensed by specialty*
20 *pharmacies (such as those dispensing only*
21 *immunosuppressive drugs), as defined by*
22 *the Secretary.*

23 “(ii) *Drugs administered by a physi-*
24 *cian in a physician’s office.*

25 “(2) *FEDERAL UPPER LIMIT.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (D) and subject to paragraph (5),*
3 *the Federal upper limit established under this*
4 *paragraph for the ingredient cost of a—*

5 “(i) *single source drug, is 106 percent*
6 *of the RAMP (as defined in subparagraph*
7 *(B)(i)) for that drug; and*

8 “(ii) *multiple source drug, is 120 per-*
9 *cent of the volume weighted average RAMP*
10 *(as determined under subparagraph (C)) for*
11 *that drug.*

12 *A drug product that is a single source drug and*
13 *that becomes a multiple source drug shall con-*
14 *tinue to be treated under this subsection as a*
15 *single source drug until the Secretary determines*
16 *that there are sufficient data to compile the vol-*
17 *ume weighted average RAMP for that drug.*

18 “(B) *RAMP AND RELATED PROVISIONS.*—
19 *For purposes of this subsection:*

20 “(i) *RAMP DEFINED.*—*The term*
21 *‘RAMP’ means, with respect to a covered*
22 *outpatient drug by a manufacturer for a*
23 *calendar quarter and subject to clauses (ii)*
24 *and (iii), the average price paid to a manu-*
25 *facturer for the drug in the United States*

1 *in the quarter by wholesalers for drugs dis-*
2 *tributed to retail pharmacies, excluding*
3 *service fees that are paid by the manufac-*
4 *turer to an entity and that represent fair*
5 *market value for a bona-fide service pro-*
6 *vided by the entity.*

7 “(ii) *SALES EXEMPTED FROM COM-*
8 *PUTATION.—The RAMP under clause (i)*
9 *shall exclude any of the following:*

10 “(I) *Sales exempt from inclusion*
11 *in the determination of best price*
12 *under subsection (c)(1)(C)(i).*

13 “(II) *Such other sales as the Sec-*
14 *retary identifies as sales to an entity*
15 *that are merely nominal in amount*
16 *under subsection (c)(1)(C)(ii)(III).*

17 “(iii) *SALE PRICE NET OF DIS-*
18 *COUNTS.—In calculating the RAMP under*
19 *clause (i), such RAMP shall include any of*
20 *the following:*

21 “(I) *Cash discounts and volume*
22 *discounts.*

23 “(II) *Free goods that are contin-*
24 *gent upon any purchase requirement.*

1 “(III) Sales at a nominal price
2 that are contingent upon any purchase
3 requirement or agreement.

4 “(IV) Chargebacks, rebates (not
5 including rebates provided under an
6 agreement under this section), or any
7 other direct or indirect discounts.

8 “(V) Any other price concessions,
9 which may be based on recommenda-
10 tions of the Inspector General of the
11 Department of Health and Human
12 Services, that would result in a reduc-
13 tion of the cost to the purchaser.

14 “(iv) RETAIL PHARMACY.—For pur-
15 poses of this subsection, the term ‘retail
16 pharmacy’ does not include mail-order only
17 pharmacies or any pharmacy at a nursing
18 facility or home.

19 “(C) VOLUME WEIGHTED AVERAGE RAMP
20 DEFINED.—For purposes of this subsection, for
21 all drug products included within the same mul-
22 tiple source drug billing and payment code (or
23 such other methodology as may be specified by
24 the Secretary), the volume weighted average
25 RAMP is the volume weighted average of the

1 *RAMPs reported under subsection (b)(3)(A)(iv)*
2 *determined by—*

3 *“(i) computing the sum of the products*
4 *(for each National Drug Code assigned to*
5 *such drug products) of—*

6 *“(I) the manufacturer’s RAMP*
7 *(as defined in subparagraph (B)); and*

8 *“(II) the total number of units*
9 *specified under section 1847A(b)(2)*
10 *sold; and*

11 *“(ii) dividing the sum determined*
12 *under clause (i) by the sum of the total*
13 *number of units under clause (i)(II) for all*
14 *National Drug Codes assigned to such drug*
15 *products.*

16 *“(D) EXCEPTION FOR INITIAL SALES PERI-*
17 *ODS.—*

18 *“(i) IN GENERAL.—In the case of a*
19 *single source drug during an initial sales*
20 *period (not to exceed 2 calendar quarters)*
21 *in which data on sales for the drug are not*
22 *sufficiently available from the manufacturer*
23 *to compute the RAMP or the volume weight-*
24 *ed average RAMP under subparagraph (C),*
25 *the Federal upper limit for the ingredient*

1 *cost of such drug during such period shall*
2 *be the wholesale acquisition cost (as defined*
3 *in clause (ii)) for the drug.*

4 “(ii) *WHOLESALE ACQUISITION*
5 *COST.—For purposes of clause (i), the term*
6 *‘wholesale acquisition cost’ means, with re-*
7 *spect to a single source drug, the manufac-*
8 *turer’s list price for the drug to wholesalers*
9 *or direct purchasers in the United States,*
10 *not including prompt pay or other dis-*
11 *counts, rebates or reductions in price, for*
12 *the most recent month for which the infor-*
13 *mation is available, as reported in whole-*
14 *sale price guides or other publications of*
15 *drug or biological pricing data.*

16 “(E) *UPDATES; DATA COLLECTION.—*

17 “(i) *FREQUENCY OF DETERMINA-*
18 *TION.—The Secretary shall update the Fed-*
19 *eral upper limits applicable under this*
20 *paragraph on at least a quarterly basis,*
21 *taking into account the most recent data*
22 *collected for purposes of determining such*
23 *limits and the Food and Drug Administra-*
24 *tion’s most recent publication of ‘Approved*

1 *Drug Products with Therapeutic Equiva-*
2 *lence Evaluations’.*

3 “(ii) *COLLECTION OF DATA.—Data on*
4 *RAMP is collected under subsection*
5 *(b)(3)(A)(iv).*

6 “(F) *AUTHORITY TO ENTER CONTRACTS.—*
7 *The Secretary may enter into contracts with ap-*
8 *propriate entities to determine RAMPs and other*
9 *data necessary to calculate the Federal upper*
10 *limit for a covered outpatient drug established*
11 *under this subsection and to calculate that pay-*
12 *ment limit.*

13 “(3) *DISPENSING FEES.—*

14 “(A) *IN GENERAL.—A State which provides*
15 *medical assistance for covered outpatient drugs*
16 *shall pay a dispensing fee for each covered out-*
17 *patient drug in accordance with this paragraph.*
18 *A State may vary the amount of such dispensing*
19 *fees, including taking into account the special*
20 *circumstances of pharmacies that are serving*
21 *rural or underserved areas or that are sole com-*
22 *munity pharmacies, so long as such variation is*
23 *consistent with subparagraph (B).*

24 “(B) *DISPENSING FEE PAYMENT FOR MUL-*
25 *TIPLE SOURCE DRUGS.—A State shall establish a*

1 *dispensing fee under this title for a covered out-*
2 *patient drug that is treated as a multiple source*
3 *drug under paragraph (2)(A) (whether or not it*
4 *may be an innovator multiple source drug) in*
5 *an amount that is not less than \$8 per prescrip-*
6 *tion unit. The Secretary shall define what con-*
7 *stitutes a prescription unit for purposes of the*
8 *previous sentence.*

9 “(4) *EFFECT ON STATE MAXIMUM ALLOWABLE*
10 *COST LIMITATIONS.—This section shall not supersede*
11 *or affect provisions in effect prior to January 1,*
12 *1991, or after December 31, 1994, relating to any*
13 *maximum allowable cost limitation established by a*
14 *State for payment by the State for covered outpatient*
15 *drugs, and rebates shall be made under this section*
16 *without regard to whether or not payment by the*
17 *State for such drugs is subject to such a limitation or*
18 *the amount of such a limitation.*

19 “(5) *EVALUATION OF USE OF RETAIL SURVEY*
20 *PRICE METHODOLOGY.—*

21 “(A) *IN GENERAL.—The Secretary may de-*
22 *velop a methodology to set the Federal upper*
23 *limit based on the reported retail survey price,*
24 *as most recently reported under subparagraph*
25 *(C), instead of a percentage of RAMP or volume*

1 *weighted average RAMP as described in para-*
2 *graph (2).*

3 “(B) *INITIAL APPLICATION.*—*For 2007, the*
4 *Secretary may use this methodology for a limited*
5 *number of covered outpatient drugs, including*
6 *both single source and multiple source drugs, se-*
7 *lected by the Secretary in a manner so as to be*
8 *representative of the classes of drugs dispensed*
9 *under this title.*

10 “(C) *DETERMINATION OF RETAIL SURVEY*
11 *PRICE FOR COVERED OUTPATIENT DRUGS.*—

12 “(i) *USE OF VENDOR.*—*The Secretary*
13 *may contract services for the determination*
14 *of retail survey prices for covered outpatient*
15 *drugs that represent a nationwide average*
16 *of pharmacy sales costs for such drugs, net*
17 *of all discounts and rebates. Such a contract*
18 *shall be awarded for a term of 2 years.*

19 “(ii) *USE OF COMPETITIVE BIDDING.*—
20 *In contracting for such services, the Sec-*
21 *retary shall competitively bid for an outside*
22 *vendor that has a demonstrated history*
23 *in—*

24 “(I) *surveying and determining,*
25 *on a representative nationwide basis,*

1 *retail prices for ingredient costs of pre-*
2 *scription drugs;*

3 *“(II) working with retail phar-*
4 *macies, commercial payers, and States*
5 *in obtaining and disseminating such*
6 *price information; and*

7 *“(III) collecting and reporting*
8 *such price information on at least a*
9 *monthly basis.*

10 *“(iii) ADDITIONAL PROVISIONS.—A*
11 *contract with a vendor under this subpara-*
12 *graph shall include such terms and condi-*
13 *tions as the Secretary shall specify, includ-*
14 *ing the following:*

15 *“(I) The vendor must monitor the*
16 *marketplace and report to the Sec-*
17 *retary each time there is a new covered*
18 *outpatient drug available nationwide.*

19 *“(II) The vendor must update the*
20 *Secretary no less often than monthly*
21 *on the retail survey prices for multiple*
22 *source drugs.*

23 *“(III) The vendor must apply*
24 *methods for independently confirming*
25 *retail survey prices.*

1 “(iv) *AVAILABILITY OF INFORMATION*
2 *TO STATES.*—*Information on retail survey*
3 *prices obtained under this subparagraph,*
4 *including applicable information on single*
5 *source drugs, shall be provided to States on*
6 *an ongoing, timely basis.*

7 “(D) *STATE USE OF RETAIL SURVEY PRICE*
8 *DATA.*—

9 “(i) *DISTRIBUTION OF PRICE DATA.*—
10 *The Secretary shall devise and implement a*
11 *means for electronic distribution to each*
12 *State agency designated under section*
13 *1902(a)(5) with responsibility for the ad-*
14 *ministration or supervision of the adminis-*
15 *tration of the State plan under this title of*
16 *the retail survey price determined under*
17 *this paragraph.*

18 “(ii) *AUTHORITY TO ESTABLISH PAY-*
19 *MENT RATES BASED ON DATA.*—*A State*
20 *may use the price data received in accord-*
21 *ance with clause (i) in establishing pay-*
22 *ment rates for the ingredient costs and dis-*
23 *persing fees for covered outpatient drugs*
24 *dispensed to individuals eligible for medical*
25 *assistance under this title.*

1 “(6) *LIMITATION ON JUDICIAL REVIEW.*—*There*
2 *shall be no administrative or judicial review of—*

3 “(A) *the Secretary’s determinations of Fed-*
4 *eral upper limits, RAMPs, and volume weighted*
5 *average RAMPs under this subsection, including*
6 *the assignment of National Drug Codes to billing*
7 *and payment classes;*

8 “(B) *the Secretary’s disclosure to States of*
9 *the average manufacturer prices, RAMPs, vol-*
10 *ume weighted average RAMPs, and retail survey*
11 *prices;*

12 “(C) *determinations under this subsection*
13 *by the Secretary of covered outpatient drugs*
14 *which are dispensed by a specialty pharmacy or*
15 *administered by a physician in a physician’s of-*
16 *fice;*

17 “(D) *the contracting and calculations proc-*
18 *ess under this subsection; and*

19 “(E) *the method to allocate rebates,*
20 *chargebacks, and other price concessions to a*
21 *quarter if specified by the Secretary.”.*

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) *REPORTING RAMP-RELATED INFORMATION.*—

24 *Subsection (b)(3)(A) of such section is amended—*

1 (A) by striking “and” at the end of clause
2 (ii);

3 (B) by striking the period at the end of
4 clause (iii) and inserting “; and”; and

5 (C) by inserting after clause (iii) the fol-
6 lowing new clause:

7 “(iv) for calendar quarters beginning on or
8 after July 1, 2006, in conjunction with reporting
9 required under clause (i) and by National Drug
10 Code (including package size)—

11 “(I) the manufacturer’s RAMP (as de-
12 fined in subsection (e)(2)(B)(i)) and the
13 total number of units required to compute
14 the volume weighted average RAMP under
15 subsection (e)(2)(C);

16 “(II) if required to make payment
17 under subsection (e)(2)(D), the manufactur-
18 er’s wholesale acquisition cost, as defined in
19 clause (ii) of such subsection; and

20 “(III) information on those sales that
21 were made at a nominal price or otherwise
22 described in subsection (e)(2)(B)(ii)(II);

23 for all covered outpatient drugs.”.

24 (2) DISCLOSURE TO STATES.—Subsection
25 (b)(3)(D) of such section is amended—

1 (A) by striking “and” at the end of clause
2 (ii);

3 (B) by striking the period at the end of
4 clause (iii) and inserting “, and”; and

5 (C) by inserting after clause (iii) the fol-
6 lowing new clause:

7 “(iv) to States to carry out this title.”.

8 (3) *LIMITATIONS ON FEDERAL FINANCIAL PAR-*
9 *TICIPATION.*—Section 1903(i) of such Act (42 U.S.C.
10 1396b(i)) is amended—

11 (A) in paragraph (10)(A), by striking
12 “and” at the end;

13 (B) in paragraph (10)(B), by striking “or”
14 at the end and inserting “and”;

15 (C) by adding at the end of paragraph (10)
16 the following:

17 “(C) with respect to any amount expended for
18 the ingredient cost of a covered outpatient drug that
19 exceeds the Federal upper limit for that drug estab-
20 lished and applied under section 1927(e); or”; and

21 (D) in paragraph (21), as inserted by sec-
22 tion 104(b) of Public Law 109–91, by inserting
23 before the period at the end the following: “or de-
24 scribed in subparagraph (B) or (C) of section
25 1927(d)(2)”.

1 (c) *EFFECTIVE DATE.*—*Except as otherwise provided,*
2 *the amendments made by this section take effect with respect*
3 *to a State on the later of—*

4 (1) *January 1, 2007; or*

5 (2) *the date that is 6 months after the close of*
6 *the first regular session of the State legislature that*
7 *begins after the date of the enactment of this Act.*

8 (d) *GAO STUDY ON DISPENSING FEES, ESTIMATED*
9 *PAYMENT AMOUNTS, AND PHARMACY ACQUISITION*
10 *COSTS.*—*The Comptroller General of the United States*
11 *shall conduct a study on the appropriateness in payment*
12 *levels to pharmacies for dispensing fees under the medicaid*
13 *program, including payment to specialty pharmacies, and*
14 *on whether the estimated average payment amounts to*
15 *pharmacies for covered outpatient drugs under the medicaid*
16 *program after implementation of the amendments made by*
17 *this section are below the average prices paid by pharmacies*
18 *for acquiring such drugs. Not later than 9 months after the*
19 *date of the enactment of this Act, the Comptroller General*
20 *shall submit to Congress a report on such study.*

21 (e) *SECRETARIAL AUTHORITY TO DELAY IMPLEMEN-*
22 *TATION.*—*The Secretary of Health and Human Services*
23 *may delay the implementation of the amendments made by*
24 *subsections (a) and (b)(3)(C) for a period of not more than*
25 *1 year, if the Comptroller General finds, in the study con-*

1 ducted under subsection (d), that the estimated average pay-
 2 ment amounts to pharmacies for covered outpatient drugs
 3 under the medicaid program after implementation of such
 4 amendments are below the average prices paid by phar-
 5 macies for acquiring such drugs. If the Secretary delays the
 6 implementation of such amendments under this subsection,
 7 the Secretary shall transmit to Congress, prior to the termi-
 8 nation of the period of delay, a report containing specific
 9 recommendations for legislation to establish a more equi-
 10 table payment system.

11 (f) *IG REPORT ON USE OF RAMP AND RETAIL SUR-*
 12 *VEY PRICES.*—Not later than 2 years after the date of the
 13 enactment of this Act, the Inspector General of the Depart-
 14 ment of Health and Human Services shall submit to Con-
 15 gress a report on the appropriateness of using RAMPs and
 16 retail survey prices, rather than the average manufacturer
 17 prices or other price measures, as the basis for establishing
 18 a Federal upper limit for reimbursement for covered out-
 19 patient drugs under the medicaid program.

20 **SEC. 3102. COLLECTION AND SUBMISSION OF UTILIZATION**
 21 **DATA FOR CERTAIN PHYSICIAN ADMINIS-**
 22 **TERED DRUGS.**

23 (a) *IN GENERAL.*—Section 1927(a) of the Social Secu-
 24 rity Act (42 U.S.C. 1396r–8(a)) is amended by adding at
 25 the end the following new paragraph:

1 “(7) *REQUIREMENT FOR SUBMISSION OF UTILI-*
2 *ZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED*
3 *DRUGS.—*

4 “(A) *SINGLE SOURCE DRUGS.—In order for*
5 *payment to be available under section 1903(a)*
6 *for a covered outpatient drug that is a single*
7 *source drug that is physician administered (as*
8 *determined by the Secretary), and that is admin-*
9 *istered on or after January 1, 2006, the State*
10 *shall provide for the submission of such utiliza-*
11 *tion data and coding (such as J-codes and Na-*
12 *tional Drug Code numbers) for each such drug as*
13 *the Secretary may specify as necessary to iden-*
14 *tify the manufacturer of the drug in order to se-*
15 *ecure rebates under this section for drugs admin-*
16 *istered for which payment is made under this*
17 *title.*

18 “(B) *MULTIPLE SOURCE DRUGS.—*

19 “(i) *IN GENERAL.—Not later than Jan-*
20 *uary 1, 2007, the information shall be sub-*
21 *mitted under subparagraph (A) using Na-*
22 *tional Drug Code codes unless the Secretary*
23 *specifies that an alternative coding system*
24 *should be used.*

1 “(ii) *IDENTIFICATION OF MOST FRE-*
2 *QUENTLY PHYSICIAN ADMINISTERED MUL-*
3 *TIPLE SOURCE DRUGS.*—Not later than
4 *January 1, 2007, the Secretary shall pub-*
5 *lish a list of the 20 physician administered*
6 *multiple source drugs that the Secretary de-*
7 *termines have the highest dollar volume of*
8 *physician administered drugs dispensed*
9 *under this title. The Secretary may modify*
10 *such list from year to year to reflect changes*
11 *in such volume.*

12 “(iii) *REQUIREMENT.*—In order for
13 *payment to be available under section*
14 *1903(a) for a covered outpatient drug that*
15 *is a multiple source drug that is physician*
16 *administered (as determined by the Sec-*
17 *retary), that is on the list published under*
18 *clause (ii), and that is administered on or*
19 *after January 1, 2008, the State shall pro-*
20 *vide for the submission of such utilization*
21 *data and coding (such as J-codes and Na-*
22 *tional Drug Code numbers) for each such*
23 *drug as the Secretary may specify as nec-*
24 *essary to identify the manufacturer of the*

1 *drug in order to secure rebates under this*
2 *section.*

3 “(C) *HARDSHIP WAIVER.*—*The Secretary may*
4 *delay the application of subparagraph (A) or (B), or*
5 *both, in the case of a State to prevent hardship to*
6 *States which require additional time to implement*
7 *the reporting system required under the respective*
8 *subparagraph.”.*

9 (b) *LIMITATION ON PAYMENT.*—*Section 1903(i)(10) of*
10 *such Act (42 U.S.C. 1396b(i)(10)), as amended by section*
11 *3101(b)(3), is amended—*

12 (1) *by striking “and” at the end of subpara-*
13 *graph (B);*

14 (2) *by striking “or” at the end of subparagraph*
15 *(C) and inserting “and”; and*

16 (3) *by adding at the end the following new sub-*
17 *paragraph:*

18 “(D) *with respect to covered outpatient drugs de-*
19 *scribed in section 1927(a)(7), unless information re-*
20 *specting utilization data and coding on such drugs*
21 *that is required to be submitted under such section is*
22 *submitted in accordance with such section; or”.*

1 **SEC. 3103. IMPROVED REGULATION OF DRUGS SOLD UNDER**
2 **A NEW DRUG APPLICATION APPROVED**
3 **UNDER SECTION 505(c) OF THE FEDERAL**
4 **FOOD, DRUG, AND COSMETIC ACT.**

5 (a) *INCLUSION WITH OTHER REPORTED AVERAGE*
6 *MANUFACTURER AND BEST PRICES.*—Section
7 *1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r-*
8 *8(b)(3)(A)) is amended—*

9 (1) *by striking clause (i) and inserting the fol-*
10 *lowing:*

11 “(i) *not later than 30 days after the*
12 *last day of each rebate period under the*
13 *agreement—*

14 “(I) *on the average manufacturer*
15 *price (as defined in subsection (k)(1))*
16 *for covered outpatient drugs for the re-*
17 *bate period under the agreement (in-*
18 *cluding for all such drugs that are sold*
19 *under a new drug application ap-*
20 *proved under section 505(c) of the Fed-*
21 *eral Food, Drug, and Cosmetic Act);*
22 *and*

23 “(II) *for single source drugs and*
24 *innovator multiple source drugs (in-*
25 *cluding all such drugs that are sold*
26 *under a new drug application ap-*

1 proved under section 505(c) of the Fed-
2 eral Food, Drug, and Cosmetic Act), on
3 the manufacturer’s best price (as de-
4 fined in subsection (c)(1)(C)) for such
5 drugs for the rebate period under the
6 agreement;” and

7 (2) in clause (ii), by inserting “(including for
8 such drugs that are sold under a new drug applica-
9 tion approved under section 505(c) of the Federal
10 Food, Drug, and Cosmetic Act)” after “drugs”.

11 (b) *CONFORMING AMENDMENTS.*—Section 1927 of such
12 Act (42 U.S.C. 1396r–8) is amended—

13 (1) in subsection (c)(1)(C)—

14 (A) in clause (i), in the matter preceding
15 subclause (I), by inserting after “or innovator
16 multiple source drug of a manufacturer” the fol-
17 lowing: “(including any other such drug of a
18 manufacturer that is sold under a new drug ap-
19 plication approved under section 505(c) of the
20 Federal Food, Drug, and Cosmetic Act)”; and

21 (B) in clause (ii)—

22 (i) in subclause (II), by striking “and”
23 at the end;

1 (ii) in subclause (III), by striking the
2 period at the end and inserting “; and”;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(IV) in the case of a manufac-
7 turer that approves, allows, or other-
8 wise permits any other drug of the
9 manufacturer to be sold under a new
10 drug application approved under sec-
11 tion 505(c) of the Federal Food, Drug,
12 and Cosmetic Act, shall be inclusive of
13 the lowest price for such authorized
14 drug available from the manufacturer
15 during the rebate period to any whole-
16 saler, retailer, provider, health mainte-
17 nance organization, nonprofit entity,
18 or governmental entity within the
19 United States, excluding those prices
20 described in subclauses (I) through
21 (IV) of clause (i).”;

22 (2) in subsection (k)—

23 (A) in paragraph (1)—

24 (i) by striking “The term” and insert-
25 ing the following:

1 “(A) *IN GENERAL.*—*The term*”; and
 2 (ii) *by adding at the end the following:*
 3 “(B) *INCLUSION OF SECTION 505(c)*
 4 *DRUGS.*—*In the case of a manufacturer that ap-*
 5 *proves, allows, or otherwise permits any drug of*
 6 *the manufacturer to be sold under a new drug*
 7 *application approved under section 505(c) of the*
 8 *Federal Food, Drug, and Cosmetic Act, such*
 9 *term shall be inclusive of the average price paid*
 10 *for such authorized drug by wholesalers for drugs*
 11 *distributed to the retail pharmacy class of trade,*
 12 *after deducting customary prompt pay dis-*
 13 *counts.”.*

14 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 15 *section shall take effect on the date of the enactment of this*
 16 *Act.*

17 **SEC. 3104. CHILDREN’S HOSPITAL PARTICIPATION IN SEC-**
 18 **TION 340B DRUG DISCOUNT PROGRAM.**

19 (a) *IN GENERAL.*—*Section 1927(a)(5)(B) of the Social*
 20 *Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amended by*
 21 *inserting before the period at the end the following: “and*
 22 *a children’s hospital described in section 1886(d)(1)(B)(iii)*
 23 *which meets the requirements of clauses (i) and (iii) of sec-*
 24 *tion 340B(b)(4)(L) of the Public Health Service Act and*
 25 *which would meet the requirements of clause (ii) of such*

1 *section if that clause were applied by taking into account*
 2 *the percentage of care provided by the hospital to patients*
 3 *eligible for medical assistance under a State plan under this*
 4 *title”.*

5 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 6 *section (a) shall apply to drugs purchased on or after the*
 7 *date of the enactment of this Act.*

8 **SEC. 3105. IMPROVING PATIENT OUTCOMES THROUGH**
 9 **GREATER RELIANCE ON SCIENCE AND BEST**
 10 **PRACTICES.**

11 (a) *IN GENERAL.*—*Section 1927 of Social Security Act*
 12 *(42 U.S.C. 1396r–8) is amended—*

13 (1) *in subsection (d)(5)—*

14 (A) *in the matter before subparagraph (A),*
 15 *by striking “providing for such approval—” and*
 16 *inserting “providing for such approval meets the*
 17 *following requirements:”;*

18 (B) *in subparagraph (A)—*

19 (i) *by inserting “The system” before*
 20 *“provides”; and*

21 (ii) *by striking “; and” and inserting*
 22 *a period;*

23 (C) *in subparagraph (B)—*

24 (i) *by striking “except” and inserting*
 25 *“Except”; and*

1 (ii) by inserting “the system” before
2 “provides”; and

3 (D) by adding at the end the following new
4 subparagraphs:

5 “(C) The system provides that an atypical
6 antipsychotic or antidepressant single source
7 drug may be placed on a list of drugs subject to
8 prior authorization only where a drug use review
9 board has determined, based on the strength of
10 the scientific evidence and standards of practice,
11 including assessing peer-reviewed medical lit-
12 erature, pharmacoeconomic studies, outcomes re-
13 search data and such other information as the
14 board determines to be appropriate, that placing
15 the drug on prior approval or otherwise impos-
16 ing restrictions on its use is not likely to harm
17 patients or increase overall medical costs.

18 “(D) The system provides that where a re-
19 sponse is not received to a request for authoriza-
20 tion of an atypical antipsychotic or
21 antidepressant drug prescribed within 24 hours
22 after the prescription is transmitted, payment is
23 made for a 30 day supply of a medication that
24 the prescriber certifies is medically necessary.”;
25 and

1 (2) in subsection (g)(3)(C), by inserting after
2 clause (iii) the following new clause:

3 “(iv) The development and oversight of
4 prior authorization programs described in
5 subsection (d)(5).”.

6 (b) *EFFECTIVE DATE*.—The amendments made by sub-
7 section (a) shall take effect on January 1, 2007.

8 **CHAPTER 2—REFORM OF ASSET**
9 **TRANSFER RULES**

10 **SEC. 3111. LENGTHENING LOOK-BACK PERIOD; CHANGE IN**
11 **BEGINNING DATE FOR PERIOD OF INELIGI-**
12 **BILITY.**

13 (a) *LENGTHENING LOOK-BACK PERIOD FOR ALL DIS-*
14 *POSALS TO 5 YEARS*.—Section 1917(c)(1)(B)(i) of the So-
15 *cial Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended*
16 *by inserting “or in the case of any other disposal of assets*
17 *made on or after the date of the enactment of the Medicaid*
18 *Reconciliation Act of 2005” before “, 60 months”.*

19 (b) *CHANGE IN BEGINNING DATE FOR PERIOD OF IN-*
20 *ELIGIBILITY*.—Section 1917(c)(1)(D) of such Act (42 U.S.C.
21 1396p(c)(1)(D)) is amended—

22 (1) by striking “(D) The date” and inserting
23 “(D)(i) In the case of a transfer of asset made before
24 the date of the enactment of the Medicaid Reconcili-
25 ation Act of 2005, the date”; and

1 (2) by adding at the end the following new
2 *clause:*

3 “(ii) *In the case of a transfer of asset made on or after*
4 *the date of the enactment of the Medicaid Reconciliation*
5 *Act of 2005, the date specified in this subparagraph is the*
6 *first day of a month during or after which assets have been*
7 *transferred for less than fair market value, or the date on*
8 *which the individual is eligible for medical assistance under*
9 *the State plan and is receiving services described in sub-*
10 *paragraph (C) but for the application of the penalty period,*
11 *whichever is later, and which does not occur during any*
12 *other period of ineligibility under this subsection.”.*

13 (c) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall apply to transfers made on or after the date*
15 *of the enactment of this Act.*

16 (d) *AVAILABILITY OF HARDSHIP WAIVERS.*—*Each*
17 *State shall provide for a hardship waiver process in accord-*
18 *ance with section 1917(c)(2)(D) of the Social Security Act*
19 *(42 U.S.C. 1396p(c)(2)(D))—*

20 (1) *under which an undue hardship exists when*
21 *application of the transfer of assets provision would*
22 *deprive the individual—*

23 (A) *of medical care such that the individ-*
24 *ual’s health or life would be endangered; or*

1 (B) of food, clothing, shelter, or other neces-
2 sities of life; and

3 (2) which provides for—

4 (A) notice to recipients that an undue hard-
5 ship exception exists;

6 (B) a timely process for determining wheth-
7 er an undue hardship waiver will be granted;
8 and

9 (C) a process under which an adverse deter-
10 mination can be appealed.

11 (e) *ADDITIONAL PROVISIONS ON HARDSHIP WAIV-*
12 *ERS.*—

13 (1) *APPLICATION BY FACILITY.*—Section
14 1917(c)(2) of the Social Security Act (42 U.S.C.
15 1396p(c)(2)) is amended—

16 (A) by striking the semicolon at the end of
17 subparagraph (D) and inserting a period; and

18 (B) by adding after and below such subpara-
19 graph the following:

20 “The procedures established under subparagraph (D)
21 shall permit the facility in which the institutionalized
22 individual is residing to file an undue hardship
23 waiver application on behalf of the individual with
24 the consent of the individual or the legal guardian of
25 the individual.”.

1 (2) *AUTHORITY TO MAKE BED HOLD PAYMENTS FOR*
 2 *HARDSHIP APPLICANTS.*—*Such section is further amended*
 3 *by adding at the end the following: “While an application*
 4 *for an undue hardship waiver is pending under subpara-*
 5 *graph (D) in the case of an individual who is a resident*
 6 *of a nursing facility, if the application meets such criteria*
 7 *as the Secretary specifies, the State may provide for pay-*
 8 *ments for nursing facility services in order to hold the bed*
 9 *for the individual at the facility, but not in excess of pay-*
 10 *ments for 30 days.”.*

11 **SEC. 3112. DISCLOSURE AND TREATMENT OF ANNUITIES**
 12 **AND OF LARGE TRANSACTIONS.**

13 (a) *IN GENERAL.*—*Section 1917 of the Social Security*
 14 *Act (42 U.S.C. 1396p) is amended by redesignating sub-*
 15 *section (e) as subsection (f) and by inserting after subsection*
 16 *(d) the following new subsection:*

17 “(e)(1) *In order to meet the requirements of this section*
 18 *for purposes of section 1902(a)(18), a State shall require,*
 19 *as a condition for the provision of medical assistance for*
 20 *services described in subsection (c)(1)(C)(i) (relating to*
 21 *long-term care services) for an individual, the application*
 22 *of the individual for such assistance (including any recer-*
 23 *tification of eligibility for such assistance) shall disclose the*
 24 *following:*

1 “(A) A description of any interest the individual
2 or community spouse has in an annuity (or similar
3 financial instrument which provides for the conver-
4 sion of a countable asset to a noncountable asset, as
5 may be specified by the Secretary), regardless of
6 whether the annuity is irrevocable or is treated as an
7 asset.

8 “(B) Full information (as specified by the Sec-
9 retary) concerning any transaction involving the
10 transfer or disposal of assets during the previous pe-
11 riod of 60 months, if the transaction exceeded
12 \$100,000, without regard to whether the transfer or
13 disposal was for fair market value. For purposes of
14 applying the previous sentence under this subsection,
15 all transactions of \$5,000 or more occurring within
16 a 12-month period shall be treated as a single trans-
17 action. The dollar amounts specified in the first and
18 second sentences of this subparagraph shall be in-
19 creased, beginning with 2007, from year to year based
20 on the percentage increase in the consumer price
21 index for all urban consumers (all items; United
22 States city average), rounded to the nearest \$1,000 in
23 the case of the first sentence and \$100 in the case of
24 the second sentence.

1 *Such application or recertification form shall include a*
2 *statement that under paragraph (2) the State becomes a*
3 *remainder beneficiary under such an annuity or similar*
4 *financial instrument by virtue of the provision of such med-*
5 *ical assistance.*

6 “(2)(A) *In the case of any annuity in which an insti-*
7 *tutionalized individual or community spouse has an inter-*
8 *est, if medical assistance is furnished to the individual for*
9 *services described in subsection (c)(1)(C)(i), by virtue of the*
10 *provision of such assistance the State becomes the remain-*
11 *der beneficiary in the first position for the total amount*
12 *of such medical assistance paid on behalf of the individual*
13 *under this title (or, where there is a community spouse or*
14 *minor or disabled child in such first position, in the posi-*
15 *tion immediately succeeding the position of such spouse or*
16 *child or both).*

17 “(B) *In the case of disclosure concerning an annuity*
18 *under paragraph (1)(A), the State shall notify the issuer*
19 *of the annuity of the right of the State under subparagraph*
20 *(A) as a preferred remainder beneficiary in the annuity*
21 *for medical assistance furnished to the individual. Nothing*
22 *in this paragraph shall be construed as preventing such an*
23 *issuer from notifying persons with any other remainder in-*
24 *terest of the State’s remainder interest under subparagraph*
25 *(A).*

1 “(C) *In the case of such an issuer receiving notice*
2 *under subparagraph (B), the State may require the issuer*
3 *to notify the State when there is a change in the amount*
4 *of income or principal being withdrawn from the amount*
5 *that was being withdrawn at the time of the most recent*
6 *disclosure described in paragraph (1)(A). A State shall take*
7 *such information into account in determining the amount*
8 *of the State’s obligations for medical assistance or in the*
9 *individual’s eligibility for such assistance.*

10 “(3)(A) *For purposes of subsection (c)(1), a trans-*
11 *action described in paragraph (1)(B) shall be deemed as*
12 *the transfer of an asset for less than fair market value unless*
13 *the individual demonstrates to the satisfaction of the State*
14 *that the transfer of the asset was for fair market value.*

15 “(B) *The Secretary may provide guidance to States*
16 *on categories of arms length transactions (such as the pur-*
17 *chase of a commercial annuity) that could be generally*
18 *treated as a transfer of asset for fair market value.*

19 “(4) *Nothing in this subsection shall be construed as*
20 *preventing a State from denying eligibility for medical as-*
21 *sistance for an individual based on the income or resources*
22 *derived from an annuity described in paragraph (1)(A).”.*

23 **(b) EFFECTIVE DATE.**—*The amendments made by this*
24 *section shall apply to transactions (including the purchase*

1 of an annuity) occurring on or after the date of the enact-
 2 ment of this Act.

3 **SEC. 3113. APPLICATION OF “INCOME-FIRST” RULE IN AP-**
 4 **PLYING COMMUNITY SPOUSE’S INCOME BE-**
 5 **FORE ASSETS IN PROVIDING SUPPORT OF**
 6 **COMMUNITY SPOUSE.**

7 (a) *IN GENERAL.*—Section 1924(d) of the Social Secu-
 8 rity Act (42 U.S.C. 1396r–5(d)) is amended by adding at
 9 the end the following new paragraph:

10 “(6) *APPLICATION OF ‘INCOME FIRST’ RULE FOR*
 11 *FUNDING COMMUNITY SPOUSE MONTHLY INCOME AL-*
 12 *LOWANCE.*—For purposes of this subsection and sub-
 13 section (e), any transfer or allocation made from an
 14 institutionalized spouse to meet the need of a commu-
 15 nity spouse for a community spouse monthly income
 16 allowance under paragraph (1)(B) shall be first made
 17 from income of the institutionalized spouse and then
 18 only when the income is not available from the re-
 19 sources of such institutionalized spouse.”.

20 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 21 section (a) shall apply to transfers and allocations made
 22 on or after the date of the enactment of this Act by individ-
 23 uals who become institutionalized spouses on or after such
 24 date.

1 **SEC. 3114. DISQUALIFICATION FOR LONG-TERM CARE AS-**
 2 **SISTANCE FOR INDIVIDUALS WITH SUBSTAN-**
 3 **TIAL HOME EQUITY.**

4 (a) *IN GENERAL.*—Section 1917 of the Social Security
 5 Act, as amended by section 3112, is further amended by
 6 redesignating subsection (f) as subsection (g) and by insert-
 7 ing after subsection (e) the following new subsection:

8 “(f)(1) Notwithstanding any other provision of this
 9 title, subject to paragraph (2), in determining eligibility of
 10 an individual for medical assistance with respect to nursing
 11 facility services or other long-term care services, the indi-
 12 vidual shall not be eligible for such assistance if the individ-
 13 ual’s equity interest in the individual’s home exceeds
 14 \$750,000. The dollar amount specified in the preceding sen-
 15 tence shall be increased, beginning with 2011, from year
 16 to year based on the percentage increase in the consumer
 17 price index for all urban consumers (all items; United
 18 States city average), rounded to the nearest \$1,000.

19 “(2) Paragraph (1) shall not apply with respect to an
 20 individual if—

21 “(A) the spouse of such individual, or

22 “(B) such individual’s child who is under age
 23 21, or (with respect to States eligible to participate
 24 in the State program established under title XVI) is
 25 blind or permanently and totally disabled, or (with
 26 respect to States which are not eligible to participate

1 *in such program) is blind or disabled as defined in*
2 *section 1614,*

3 *is lawfully residing in the individual’s home.*

4 “(3) *Nothing in this subsection shall be construed as*
5 *preventing an individual from using a reverse mortgage or*
6 *home equity loan to reduce the individual’s total equity in-*
7 *terest in the home.*

8 “(4) *The Secretary shall establish a process whereby*
9 *paragraph (1) is waived in the case of a demonstrated hard-*
10 *ship.”*

11 *(b) EFFECTIVE DATE.—The amendment made by sub-*
12 *section (a) shall apply to individuals who are determined*
13 *eligible for medical assistance with respect to nursing facil-*
14 *ity services or other long-term care services based on an ap-*
15 *plication filed on or after January 1, 2006.*

16 **SEC. 3115. ENFORCEABILITY OF CONTINUING CARE RETIRE-**
17 **MENT COMMUNITIES (CCRC) AND LIFE CARE**
18 **COMMUNITY ADMISSION CONTRACTS.**

19 *(a) ADMISSION POLICIES OF NURSING FACILITIES.—*
20 *Section 1919(c)(5) of the Social Security Act (42 U.S.C.*
21 *1396r(c)(5)) is amended—*

22 *(1) in subparagraph (A)(i)(II), by inserting*
23 *“subject to clause (v),” after “(II); and*

24 *(2) by adding at the end of subparagraph (B)*
25 *the following new clause:*

1 “(v) *TREATMENT OF CONTINUING CARE*
 2 *RETIREMENT COMMUNITIES ADMISSION CON-*
 3 *TRACTS.—Notwithstanding subclause (II) of*
 4 *subparagraph (A)(i), subject to subsections*
 5 *(c) and (d) of section 1924, contracts for ad-*
 6 *mission to a State licensed, registered, cer-*
 7 *tified, or equivalent continuing care retire-*
 8 *ment community or life care community,*
 9 *including services in a nursing facility that*
 10 *is part of such community, may require*
 11 *residents to spend on their care resources*
 12 *declared for the purposes of admission be-*
 13 *fore applying for medical assistance.”.*

14 (b) *TREATMENT OF ENTRANCE FEES.—Section 1917*
 15 *of such Act (42 U.S.C. 1396p), as amended by sections*
 16 *3112(a) and 3114(a), is amended by redesignating sub-*
 17 *section (g) as subsection (h) and by inserting after sub-*
 18 *section (f) the following new subsection:*

19 “(g) *TREATMENT OF ENTRANCE FEES OF INDIVIDUALS*
 20 *RESIDING IN CONTINUING CARE RETIREMENT COMMU-*
 21 *NITIES.—*

22 “(1) *IN GENERAL.—For purposes of determining*
 23 *an individual’s eligibility for, or amount of, benefits*
 24 *under a State plan under this title, the rules specified*
 25 *in paragraph (2) shall apply to individuals residing*

1 *in continuing care retirement communities or life*
2 *care communities that collect an entrance fee on ad-*
3 *mission from such individuals.*

4 “(2) *TREATMENT OF ENTRANCE FEE.—For pur-*
5 *poses of this subsection, an individual’s entrance fee*
6 *in a continuing care retirement community or life*
7 *care community shall be considered a resource avail-*
8 *able to the individual to the extent that—*

9 “(A) *the individual has the ability to use*
10 *the entrance fee, or the contract provides that the*
11 *entrance fee may be used, to pay for care should*
12 *other resources or income of the individual be in-*
13 *sufficient to pay for such care;*

14 “(B) *the individual is eligible for a refund*
15 *of any remaining entrance fee when the indi-*
16 *vidual dies or terminates the continuing care re-*
17 *tirement community or life care community con-*
18 *tract and leaves the community; and*

19 “(C) *the entrance fee does not confer an*
20 *ownership interest in the continuing care retire-*
21 *ment community or life care community.*

22 “(3) *TREATMENT IN RELATION TO SPOUSAL*
23 *SHARE.—To the extent that an entrance fee is deter-*
24 *mined to be an available resource to an individual*
25 *applying for medical assistance and the individual*

1 *has a community spouse as defined in section*
 2 *1924(h), the entrance fee shall be considered in the*
 3 *computation of spousal share pursuant to section*
 4 *1924(c).”.*

5 **CHAPTER 3—FLEXIBILITY IN COST**
 6 **SHARING AND BENEFITS**

7 **SEC. 3121. STATE OPTION FOR ALTERNATIVE MEDICAID**
 8 **PREMIUMS AND COST SHARING.**

9 *(a) IN GENERAL.—Title XIX of the Social Security*
 10 *Act is amended by inserting after section 1916 the following*
 11 *new section:*

12 “*STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST*
 13 *SHARING*

14 “*SEC. 1916A. (a) STATE FLEXIBILITY.—*

15 “*(1) IN GENERAL.—Notwithstanding sections*
 16 *1916 and 1902(a)(10)(B), a State, at its option and*
 17 *through a State plan amendment, may impose pre-*
 18 *miums and cost sharing for any group of individuals*
 19 *(as specified by the State) and for any type of services*
 20 *(and may vary such premiums and cost sharing*
 21 *among such groups or types, including through the*
 22 *use of tiered cost sharing for prescription drugs) con-*
 23 *sistent with the limitations established under this sec-*
 24 *tion. Nothing in this section shall be construed as su-*
 25 *perseding (or preventing the application of) section*
 26 *1916(g).*

1 “(2) *DEFINITIONS.—In this section:*

2 “(A) *PREMIUM.—The term ‘premium’ in-*
3 *cludes any enrollment fee or similar charge.*

4 “(B) *COST SHARING.—The term ‘cost shar-*
5 *ing’ includes any deduction, deductible, copay-*
6 *ment, or similar charge.*

7 “(b) *LIMITATIONS ON EXERCISE OF AUTHORITY.—*

8 “(1) *INDIVIDUALS WITH FAMILY INCOME BELOW*
9 *100 PERCENT OF POVERTY LEVEL.—In the case of an*
10 *individual whose family income does not exceed 100*
11 *percent of the Federal poverty level applicable to a*
12 *family of the size involved, subject to subsections*
13 *(c)(2) and (e)(2)(A), the limitations otherwise pro-*
14 *vided under subsections (a) and (b) of section 1916*
15 *shall continue to apply and no premium will be im-*
16 *posed under the plan, except that the total annual ag-*
17 *gregate amount of cost sharing imposed (including*
18 *any increased cost sharing imposed under subsection*
19 *(c) or (e)) for all individuals in the family may not*
20 *exceed 5 percent of the family income of the family*
21 *involved for the year involved.*

22 “(2) *INDIVIDUALS WITH FAMILY INCOME ABOVE*
23 *100 PERCENT OF POVERTY LEVEL.—In the case of an*
24 *individual whose family income exceeds 100 percent*
25 *of the Federal poverty level applicable to a family of*

1 *the size involved, the total annual aggregate amount*
2 *of premiums and cost sharing imposed (including*
3 *any increase and cost sharing imposed under sub-*
4 *section (c) or (e)) for all individuals in the family*
5 *may not exceed 5 percent of the family income of the*
6 *family involved for the year involved.*

7 “(3) *ADDITIONAL LIMITATIONS.—*

8 “(A) *PREMIUMS.—No premiums shall be*
9 *imposed under this section with respect to the*
10 *following:*

11 “(i) *Individuals under 18 years of age*
12 *that are required to be provided medical as-*
13 *sistance under section 1902(a)(10)(A)(i),*
14 *and including individuals with respect to*
15 *whom adoption or foster care assistance is*
16 *made available under part E of title IV*
17 *without regard to age.*

18 “(ii) *Pregnant women.*

19 “(iii) *Any terminally ill individual*
20 *who is receiving hospice care (as defined in*
21 *section 1905(o)).*

22 “(iv) *Any individual who is an inpa-*
23 *tient in a hospital, nursing facility, inter-*
24 *mediate care facility for the mentally re-*
25 *tarded, or other medical institution, if such*

1 *individual is required, as a condition of re-*
2 *ceiving services in such institution under*
3 *the State plan, to spend for costs of medical*
4 *care all but a minimal amount of the indi-*
5 *vidual's income required for personal needs.*

6 “(B) *COST SHARING.*—*Subject to the suc-*
7 *ceeding provisions of this section, no cost sharing*
8 *shall be imposed under this section with respect*
9 *to the following:*

10 “(i) *Services furnished to individuals*
11 *under 18 years of age that are required to*
12 *be provided medical assistance under sec-*
13 *tion 1902(a)(10)(A)(i), and including serv-*
14 *ices furnished to individuals with respect to*
15 *whom adoption or foster care assistance is*
16 *made available under part E of title IV*
17 *without regard to age.*

18 “(ii) *Preventive services (such as well*
19 *baby and well child care and immuniza-*
20 *tions) provided to children under 18 years*
21 *of age regardless of family income.*

22 “(iii) *Services furnished to pregnant*
23 *women, if such services relate to the preg-*
24 *nancy or to any other medical condition*
25 *which may complicate the pregnancy.*

1 “(iv) *Services furnished to a termi-*
2 *nally ill individual who is receiving hospice*
3 *care (as defined in section 1905(o)).*

4 “(v) *Services furnished to any indi-*
5 *vidual who is an inpatient in a hospital,*
6 *nursing facility, intermediate care facility*
7 *for the mentally retarded, or other medical*
8 *institution, if such individual is required,*
9 *as a condition of receiving services in such*
10 *institution under the State plan, to spend*
11 *for costs of medical care all but a minimal*
12 *amount of the individual’s income required*
13 *for personal needs.*

14 “(vi) *Emergency services (as defined*
15 *by the Secretary for purposes of section*
16 *1916(a)(2)(D)).*

17 “(vii) *Family planning services and*
18 *supplies described in section 1905(a)(4)(C).*

19 “(C) *CONSTRUCTION.—Nothing in this*
20 *paragraph shall be construed as preventing a*
21 *State from exempting additional classes of indi-*
22 *viduals from premiums under this section or*
23 *from exempting additional individuals or serv-*
24 *ices from cost sharing under this section.*

1 “(4) *INDEXING NOMINAL AMOUNTS.*—*In apply-*
2 *ing section 1916 under paragraph (1) with respect to*
3 *cost sharing that is ‘nominal’ in amount, the Sec-*
4 *retary shall increase such ‘nominal’ amounts for each*
5 *year (beginning with 2006) by the annual percentage*
6 *increase in the medical care component of the con-*
7 *sumer price index for all urban consumers (U.S. city*
8 *average) as rounded up in an appropriate manner.*

9 “(5) *DETERMINATIONS OF FAMILY INCOME.*—*In*
10 *applying this subsection, family income shall be de-*
11 *termined in a manner specified by the State for pur-*
12 *poses of this subsection, including the use of such dis-*
13 *regards as the State may provide. Family income*
14 *shall be determined for such period and at such perio-*
15 *dicity as the State may provide under this title.*

16 “(6) *POVERTY LINE DEFINED.*—*For purposes of*
17 *this section, the term ‘poverty line’ has the meaning*
18 *given such term in section 673(2) of the Community*
19 *Services Block Grant Act (42 U.S.C. 9902(2)), includ-*
20 *ing any revision required by such section.*

21 “(7) *CONSTRUCTION.*—*Nothing in this section*
22 *shall be construed—*

23 “(A) *as preventing a State from further*
24 *limiting the premiums and cost sharing imposed*

1 *under this section beyond the limitations pro-*
 2 *vided under this subsection;*

3 *“(B) as affecting the authority of the Sec-*
 4 *retary through waiver to modify limitations on*
 5 *premiums and cost sharing under this sub-*
 6 *section; or*

7 *“(C) as affecting any such waiver of re-*
 8 *quirements in effect under this title before the*
 9 *date of the enactment of this section with regard*
 10 *to the imposition of premiums and cost sharing.*

11 *“(d) ENFORCEABILITY OF PREMIUMS AND OTHER*
 12 *COST SHARING.—*

13 *“(1) PREMIUMS.—Notwithstanding section*
 14 *1916(c)(3) and section 1902(a)(10)(B), a State may,*
 15 *at its option, condition the provision of medical as-*
 16 *sistance for an individual upon prepayment of a pre-*
 17 *mium authorized to be imposed under this section, or*
 18 *may terminate eligibility for such medical assistance*
 19 *on the basis of failure to pay such a premium but*
 20 *shall not terminate eligibility of an individual for*
 21 *medical assistance under this title on the basis of fail-*
 22 *ure to pay any such premium until such failure con-*
 23 *tinues for a period of not less than 60 days. A State*
 24 *may apply the previous sentence for some or all*
 25 *groups of beneficiaries as specified by the State and*

1 *may waive payment of any such premium in any*
2 *case where the State determines that requiring such*
3 *payment would create an undue hardship.*

4 *“(2) COST SHARING.—Notwithstanding section*
5 *1916(e) or any other provision of law, a State may*
6 *permit a provider participating under the State plan*
7 *to require, as a condition for the provision of care,*
8 *items, or services to an individual entitled to medical*
9 *assistance under this title for such care, items, or*
10 *services, the payment of any cost sharing authorized*
11 *to be imposed under this section with respect to such*
12 *care, items, or services. Nothing in this paragraph*
13 *shall be construed as preventing a provider from re-*
14 *ducing or waiving the application of such cost shar-*
15 *ing.”.*

16 *(b) CONFORMING AMENDMENT.—Section 1916(f) of*
17 *such Act (42 U.S.C. 1396o(f)) is amended by inserting “and*
18 *section 1916A” after “(b)(3)”.*

19 *(c) GAO STUDY OF IMPACT OF PREMIUMS AND COST*
20 *SHARING.—The Comptroller General of the United States*
21 *shall conduct a study on the impact of premiums and cost*
22 *sharing under the medicaid program on access to, and utili-*
23 *zation of, services. Not later than January 1, 2008, the*
24 *Comptroller General shall submit to Congress a report on*
25 *such study.*

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to cost sharing imposed for items and*
 3 *services furnished on or after January 1, 2006.*

4 **SEC. 3122. SPECIAL RULES FOR COST SHARING FOR PRE-**
 5 **SCRIPTION DRUGS.**

6 (a) *IN GENERAL.*—*Section 1916A of the Social Secu-*
 7 *rity Act, as inserted by section 3121, is amended by insert-*
 8 *ing after subsection (b) the following new subsection:*

9 “(c) *SPECIAL RULES FOR COST SHARING FOR PRE-*
 10 *SCRIPTION DRUGS.*—

11 “(1) *IN GENERAL.*—*In order to encourage bene-*
 12 *ficiaries to use drugs (in this subsection referred to as*
 13 *‘preferred drugs’) identified by the State as the least*
 14 *(or less) costly effective prescription drugs within a*
 15 *class of drugs (as defined by the State), with respect*
 16 *to one or more groups of beneficiaries specified by the*
 17 *State, subject to paragraphs (2) and (5), the State*
 18 *may—*

19 “(A) *provide an increase in cost sharing*
 20 *(above the nominal level otherwise permitted*
 21 *under section 1916 or subsection (b), but subject*
 22 *to paragraphs (2) and (3)) with respect to drugs*
 23 *that are not preferred drugs within a class; and*

24 “(B) *waive or reduce the cost sharing other-*
 25 *wise applicable for preferred drugs within such*

1 *class and shall not apply any such cost sharing*
2 *for such preferred drugs for individuals for*
3 *whom cost sharing may not otherwise be imposed*
4 *under subsection (b)(3)(B).*

5 “(2) *LIMITATIONS.—*

6 “(A) *BY INCOME GROUP AS A MULTIPLE OF*
7 *NOMINAL AMOUNTS.—In no case may the in-*
8 *crease in cost sharing under paragraph (1)(A)*
9 *with respect to a non-preferred drug exceed, in*
10 *the case of an individual whose family income*
11 *is—*

12 “(i) *below 100 percent of the poverty*
13 *line applicable to a family of the size in-*
14 *volved, the amount of nominal cost sharing*
15 *(as otherwise determined under subsection*
16 *(b));*

17 “(ii) *at least 100 percent, but below*
18 *150 percent, of the poverty line applicable*
19 *to a family of the size involved, two times*
20 *the amount of nominal cost sharing (as oth-*
21 *erwise determined under subsection (b)); or*

22 “(iii) *at least 150 percent of the pov-*
23 *erty line applicable to a family of the size*
24 *involved, three times the amount of nominal*

1 *cost sharing (as otherwise determined under*
2 *subsection (b)).*

3 “(B) *LIMITATION TO NOMINAL FOR EXEMPT*
4 *POPULATIONS.—In the case of an individual who*
5 *is otherwise not subject to cost sharing due to the*
6 *application of subsection (b)(3), any increase in*
7 *cost sharing under paragraph (1)(A) with re-*
8 *spect to a non-preferred drug may not exceed a*
9 *nominal amount (as otherwise determined under*
10 *subsection (b)).*

11 “(C) *CONTINUED APPLICATION OF AGGREGATE*
12 *CAP.—In addition to the limitations im-*
13 *posed under subparagraphs (A) and (B), any in-*
14 *crease in cost sharing under paragraph (1)(A)*
15 *continues to be subject to the aggregate cap on*
16 *cost sharing applied under paragraph (1) or (2)*
17 *of subsection (b), as the case may be.*

18 “(D) *TRICARE PHARMACY BENEFIT PRO-*
19 *GRAM LIMITATIONS.—In no case may a State—*
20 “(i) *treat as a non-preferred drug*
21 *under this subsection a drug that is treated*
22 *as a preferred drug under the TRICARE*
23 *pharmacy benefit program established*
24 *under section 1074g of title 10, United*

1 *States Code, as such program is in effect on*
2 *the date of the enactment of this section; or*

3 “(ii) *impose cost sharing under this*
4 *subsection that exceeds the cost sharing im-*
5 *posed under the standards under such phar-*
6 *macy benefit program, as such program is*
7 *in effect as of the date of the enactment of*
8 *this section.*

9 “(3) *WAIVER.—In carrying out paragraph (1), a*
10 *State shall provide for the application of cost sharing*
11 *levels applicable to a preferred drug in the case of a*
12 *drug that is not a preferred drug if the prescribing*
13 *physician determines that the preferred drug for*
14 *treatment of the same condition either would not be*
15 *as effective for the individual or would have adverse*
16 *effects for the individual or both.*

17 “(4) *EXCLUSION AUTHORITY.—Nothing in this*
18 *subsection shall be construed as preventing a State*
19 *from excluding from paragraph (1) specified drugs or*
20 *classes of drugs.*

21 “(5) *PRIOR AUTHORIZATION AND APPEALS PROC-*
22 *ESS.—A State may not provide for increased cost*
23 *sharing under this subsection unless the State has im-*
24 *plemented for outpatient prescription drugs a system*

1 for prior authorization and an appeals process for de-
2 terminations relating to prior authorization.”.

3 (b) *EFFECTIVE DATE.*—The amendment made by sub-
4 section (a) shall apply to cost sharing imposed for items
5 and services furnished on or after October 1, 2006.

6 **SEC. 3123. EMERGENCY ROOM COPAYMENTS FOR NON-**
7 **EMERGENCY CARE.**

8 (a) *IN GENERAL.*—Section 1916A of the Social Secu-
9 rity Act, as inserted by section 3121 and as amended by
10 section 3122, is further amended by adding at the end the
11 following new subsection:

12 “(e) *STATE OPTION FOR IMPOSING COST SHARING FOR*
13 *NON-EMERGENCY CARE FURNISHED IN AN HOSPITAL*
14 *EMERGENCY ROOM.*—

15 “(1) *IN GENERAL.*—Notwithstanding section
16 1916 or the previous provisions of this section, but
17 subject to the limitations of paragraph (2), a State
18 may, by amendment to its State plan under this title,
19 impose cost sharing for non-emergency services fur-
20 nished to an individual (within one or more groups
21 of individuals specified by the State) in a hospital
22 emergency department under this subsection if the fol-
23 lowing conditions are met:

24 “(A) *ACCESS TO NON-EMERGENCY ROOM*
25 *PROVIDER.*—The individual has actually avail-

1 able and accessible (as such terms are applied by
2 the Secretary under section 1916(b)(3)) an alter-
3 nate non-emergency services provider with re-
4 spect to such services.

5 “(B) NOTICE.—The physician or hospital
6 must inform the beneficiary after the appro-
7 priate screening assessment, but before providing
8 the non-emergency services, of the following:

9 “(i) The hospital may require the pay-
10 ment of the State specified cost sharing be-
11 fore the service can be provided.

12 “(ii) The name and location of an al-
13 ternate non-emergency services provider (de-
14 scribed in subparagraph (A)) that is actu-
15 ally available and accessible (as described
16 in such subparagraph).

17 “(iii) The fact that such alternate pro-
18 vider can provide the services without the
19 imposition of the increase in cost sharing
20 described in clause (i).

21 “(iv) The hospital provides a referral
22 to coordinate scheduling of this treatment.

23 Nothing in this subsection shall be construed as
24 preventing a State from applying (or waiving)

1 *cost sharing otherwise permissible under this sec-*
2 *tion to services described in clause (iii).*

3 “(2) *LIMITATIONS.*—

4 “(A) *FOR POOREST BENEFICIARIES.*—*In the*
5 *case of an individual described in subsection*
6 *(b)(1), the cost sharing imposed under this sub-*
7 *section may not exceed twice the amount deter-*
8 *mined to be nominal under this section, subject*
9 *to the percent of income limitation otherwise ap-*
10 *plicable under subsection (b)(1).*

11 “(B) *APPLICATION TO EXEMPT POPU-*
12 *LATIONS.*—*In the case of an individual who is*
13 *otherwise not subject to cost sharing under sub-*
14 *section (b)(3), a State may impose cost sharing*
15 *under paragraph (1) for care in an amount that*
16 *does not exceed a nominal amount (as otherwise*
17 *determined under subsection (b)) so long as no*
18 *cost sharing is imposed to receive such care*
19 *through an outpatient department or other alter-*
20 *native health care provider in the geographic*
21 *area of the hospital emergency department in-*
22 *volved.*

23 “(C) *CONTINUED APPLICATION OF AGGRE-*
24 *GATE CAP.*—*In addition to the limitations im-*
25 *posed under subparagraphs (A) and (B), any in-*

1 *crease in cost sharing under paragraph (1) con-*
2 *tinues to be subject to the aggregate cap on cost*
3 *sharing applied under paragraph (1) or (2) of*
4 *subsection (b), as the case may be.*

5 “(3) *CONSTRUCTION.*—*Nothing in this section*
6 *shall be construed—*

7 “(A) *to limit a hospital’s obligations with*
8 *respect to screening and stabilizing treatment of*
9 *an emergency medical condition under section*
10 *1867; or*

11 “(B) *to modify any obligations under either*
12 *State or Federal standards relating to the appli-*
13 *cation of a prudent-layperson standard with re-*
14 *spect to payment or coverage of emergency serv-*
15 *ices by any managed care organization.*

16 “(4) *DETERMINATION STANDARD.*—*No hospital*
17 *or physician that makes a determination with respect*
18 *to the imposition of cost sharing under this subsection*
19 *shall be liable in any civil action or proceeding for*
20 *such determination absent a finding by clear and*
21 *convincing evidence of gross negligence by the hospital*
22 *or physician. The previous sentence shall not affect*
23 *any liability under section 1867 or otherwise applica-*
24 *ble under State law based upon the provision (or fail-*
25 *ure to provide) care.*

1 “(5) *DEFINITIONS.*—*For purposes of this sub-*
2 *section:*

3 “(A) *NON-EMERGENCY SERVICES.*—*The*
4 *term ‘non-emergency services’ means any care or*
5 *services furnished in a emergency department of*
6 *a hospital that the physician determines do not*
7 *constitute an appropriate medical screening ex-*
8 *amination or stabilizing examination and treat-*
9 *ment screening required to be provided by the*
10 *hospital under section 1867.*

11 “(B) *ALTERNATE NON-EMERGENCY SERV-*
12 *ICES PROVIDER.*—*The term ‘alternative non-*
13 *emergency services provider’ means, with respect*
14 *to non-emergency services for the diagnosis or*
15 *treatment of a condition, a health care provider,*
16 *such as a physician’s office, health care clinic,*
17 *community health center, hospital outpatient de-*
18 *partment, or similar health care provider, that*
19 *provides clinically appropriate services for such*
20 *diagnosis or treatment of the condition within a*
21 *clinically appropriate time of the provision of*
22 *such non-emergency services and that is partici-*
23 *parting in the program under this title.”.*

24 (b) *GRANT FUNDS FOR ESTABLISHMENT OF ALTER-*
25 *NATE NON-EMERGENCY SERVICES PROVIDERS.*—*Section*

1 1903 of the Social Security Act (42 U.S.C. 1396b) is
2 amended by adding at the end the following new subsection:

3 “(x) *PAYMENTS FOR ESTABLISHMENT OF ALTERNATE*
4 *NON-EMERGENCY SERVICES PROVIDERS.*—

5 “(1) *PAYMENTS.*—*In addition to the payments*
6 *otherwise provided under subsection (a), subject to*
7 *paragraph (2), the Secretary shall provide for pay-*
8 *ments to States under such subsection for the estab-*
9 *lishment of alternate non-emergency service providers*
10 *(as defined in section 1916A(f)(5)(B)), or networks of*
11 *such providers.*

12 “(2) *LIMITATION.*—*The total amount of pay-*
13 *ments under this subsection shall be equal to, and*
14 *shall not exceed, \$100,000,000 during the four-year*
15 *period beginning with 2006. This subsection con-*
16 *stitutes budget authority in advance of appropria-*
17 *tions Acts and represents the obligation of the Sec-*
18 *retary to provide for the payment of amounts pro-*
19 *vided under this subsection.*

20 “(3) *PREFERENCE.*—*In providing for payments*
21 *to States under this subsection, the Secretary shall*
22 *provide preference to States that establish, or provide*
23 *for, alternate non-emergency services providers or net-*
24 *works of such providers that—*

1 “(A) *serve rural or underserved areas where*
 2 *beneficiaries under this title may not have reg-*
 3 *ular access to providers of primary care services;*
 4 *or*

5 “(B) *are in partnership with local commu-*
 6 *nity hospitals.*

7 “(4) *FORM AND MANNER OF PAYMENT.—Pay-*
 8 *ment to a State under this subsection shall be made*
 9 *only upon the filing of such application in such form*
 10 *and in such manner as the Secretary shall specify.*
 11 *Payment to a State under this subsection shall be*
 12 *made in the same manner as other payments under*
 13 *section 1903(a).”.*

14 “(c) *EFFECTIVE DATE.—The amendments made by this*
 15 *section shall apply to non-emergency services furnished on*
 16 *or after the date of the enactment of this Act.*

17 **SEC. 3124. USE OF BENCHMARK BENEFIT PACKAGES.**

18 *Title XIX of the Social Security Act is amended by*
 19 *redesignating section 1936 as section 1937 and by inserting*
 20 *after section 1935 the following new section:*

21 “*STATE FLEXIBILITY IN BENEFIT PACKAGES*

22 “*SEC. 1936. (a) STATE OPTION OF PROVIDING BENCH-*
 23 *MARK BENEFITS.—*

24 “(1) *AUTHORITY.—*

25 “(A) *IN GENERAL.—Notwithstanding any*
 26 *other provision of this title, a State, at its option*

1 as a State plan amendment, may provide for
 2 medical assistance under this title to individuals
 3 within one or more groups of individuals speci-
 4 fied by the State through enrollment in coverage
 5 that provides—

6 “(i) benchmark coverage described in
 7 subsection (b)(1) and, for a qualifying child,
 8 benchmark dental coverage as defined in
 9 subparagraph (F); or

10 “(ii) benchmark equivalent coverage
 11 described in subsection (b)(2) and, for a
 12 qualifying child, benchmark dental coverage
 13 as defined in subparagraph (F).

14 “(B) *LIMITATION.*—The State may only ex-
 15 ercise the option under subparagraph (A) for eli-
 16 gibility categories that had been established be-
 17 fore the date of the enactment of this section.

18 “(C) *OPTION OF WRAP-AROUND BENE-*
 19 *FITS.*—In the case of coverage described in sub-
 20 paragraph (A), a State, at its option, may pro-
 21 vide such wrap-around or additional benefits as
 22 the State may specify.

23 “(D) *TREATMENT AS MEDICAL ASSIST-*
 24 *ANCE.*—Payment of premiums for such coverage
 25 under this subsection shall be treated as payment

1 *of other insurance premiums described in the*
2 *third sentence of section 1905(a).*

3 “(E) *QUALIFYING CHILD DEFINED.*—*For*
4 *purposes of subparagraph (A), the term ‘quali-*
5 *fying child’ means a child under 18 years of age*
6 *with a family income below 133 percent of the*
7 *poverty line applicable to a family of the size in-*
8 *olved.*

9 “(F) *BENCHMARK DENTAL COVERAGE.*—*For*
10 *purposes of subparagraph (A), the term ‘bench-*
11 *mark dental coverage’ means, with respect to a*
12 *State, dental benefits coverage that is equivalent*
13 *to or better than the dental coverage offered*
14 *under the dental benefit plan that covers the*
15 *greatest number of individuals in the State who*
16 *are not entitled to medical assistance under this*
17 *title.*

18 “(2) *APPLICATION.*—

19 “(A) *IN GENERAL.*—*Except as provided in*
20 *subparagraph (B), a State may require that a*
21 *full-benefit eligible individual (as defined in sub-*
22 *paragraph (C)) within a group obtain benefits*
23 *under this title through enrollment in coverage*
24 *described in paragraph (1)(A). A State may*

1 *apply the previous sentence to individuals with-*
2 *in one or more groups of such individuals.*

3 “(B) *LIMITATION ON APPLICATION.*—A
4 *State may not require under subparagraph (A)*
5 *an individual to obtain benefits through enroll-*
6 *ment described in paragraph (1)(A) if the indi-*
7 *vidual is within one of the following categories*
8 *of individuals:*

9 “(i) *MANDATORY PREGNANT WOMEN*
10 *AND CHILDREN.*—*The individual is a preg-*
11 *nant woman or child under 18 years of age*
12 *who is required to be covered under the*
13 *State plan under section 1902(a)(10)(A)(i).*

14 “(ii) *DUAL ELIGIBLES.*—*The indi-*
15 *vidual is entitled to benefits under any part*
16 *of title XVIII.*

17 “(iii) *TERMINALLY ILL HOSPICE PA-*
18 *TIENTS.*—*The individual is terminally ill*
19 *and is receiving benefits for hospice care*
20 *under this title.*

21 “(iv) *ELIGIBLE ON BASIS OF INSTITU-*
22 *TIONALIZATION.*—*The individual is an in-*
23 *patient in a hospital, nursing facility, in-*
24 *termediate care facility for the mentally re-*
25 *tarded, or other medical institution, and is*

1 *required, as a condition of receiving services*
 2 *in such institution under the State plan, to*
 3 *spend for costs of medical care all but a*
 4 *minimal amount of the individual's income*
 5 *required for personal needs.*

6 “(v) *MEDICALLY FRAIL AND SPECIAL*
 7 *MEDICAL NEEDS INDIVIDUALS.—The indi-*
 8 *vidual is medically frail or otherwise an in-*
 9 *dividual with special medical needs (as*
 10 *identified in accordance with regulations of*
 11 *the Secretary).*

12 “(vi) *BENEFICIARIES QUALIFYING FOR*
 13 *LONG-TERM CARE SERVICES.—The indi-*
 14 *vidual qualifies based on medical condition*
 15 *for medical assistance for long-term care*
 16 *services described in section 1917(c)(1)(C).*

17 “(C) *FULL-BENEFIT ELIGIBLE INDIVID-*
 18 *UALS.—*

19 “(i) *IN GENERAL.—For purposes of*
 20 *this paragraph, subject to clause (ii), the*
 21 *term ‘full-benefit eligible individual’ means*
 22 *for a State for a month an individual who*
 23 *is determined eligible by the State for med-*
 24 *ical assistance for all services defined in sec-*
 25 *tion 1905(a) which are covered under the*

1 *State plan under this title for such month*
 2 *under section 1902(a)(10)(A) or under any*
 3 *other category of eligibility for medical as-*
 4 *istance for all such services under this title,*
 5 *as determined by the Secretary.*

6 “(ii) *EXCLUSION OF MEDICALLY NEEDY*
 7 *AND SPEND-DOWN POPULATIONS.—Such*
 8 *term shall not include an individual deter-*
 9 *mined to be eligible by the State for medical*
 10 *assistance under section 1902(a)(10)(C) or*
 11 *by reason of section 1902(f) or otherwise eli-*
 12 *gible based on a reduction of income based*
 13 *on costs incurred for medical or other reme-*
 14 *dial care.*

15 “(b) *BENCHMARK BENEFIT PACKAGES.—*

16 “(1) *IN GENERAL.—For purposes of subsection*
 17 *(a)(1), each of the following coverage shall be consid-*
 18 *ered to be benchmark coverage:*

19 “(A) *FEHBP-EQUIVALENT HEALTH INSUR-*
 20 *ANCE COVERAGE.—The standard Blue Cross/Blue*
 21 *Shield preferred provider option service benefit*
 22 *plan, described in and offered under section*
 23 *8903(1) of title 5, United States Code.*

24 “(B) *STATE EMPLOYEE COVERAGE.—A*
 25 *health benefits coverage plan that is offered and*

1 *generally available to State employees in the*
 2 *State involved.*

3 “(C) *COVERAGE OFFERED THROUGH*
 4 *HMO.—The health insurance coverage plan*
 5 *that—*

6 “(i) *is offered by a health maintenance*
 7 *organization (as defined in section*
 8 *2791(b)(3) of the Public Health Service*
 9 *Act), and*

10 “(ii) *has the largest insured commer-*
 11 *cial, non-medicaid enrollment of covered*
 12 *lives of such coverage plans offered by such*
 13 *a health maintenance organization in the*
 14 *State involved.*

15 “(2) *BENCHMARK-EQUIVALENT COVERAGE.—For*
 16 *purposes of subsection (a)(1), coverage that meets the*
 17 *following requirement shall be considered to be bench-*
 18 *mark-equivalent coverage:*

19 “(A) *INCLUSION OF BASIC SERVICES.—The*
 20 *coverage includes benefits for items and services*
 21 *within each of the following categories of basic*
 22 *services:*

23 “(i) *Inpatient and outpatient hospital*
 24 *services.*

1 “(ii) *Physicians’ surgical and medical*
2 *services.*

3 “(iii) *Laboratory and x-ray services.*

4 “(iv) *Well-baby and well-child care, in-*
5 *cluding age-appropriate immunizations.*

6 “(v) *Other appropriate preventive serv-*
7 *ices, as designated by the Secretary.*

8 “(B) *AGGREGATE ACTUARIAL VALUE EQUIV-*
9 *ALENT TO BENCHMARK PACKAGE.—The coverage*
10 *has an aggregate actuarial value that is at least*
11 *actuarially equivalent to one of the benchmark*
12 *benefit packages described in paragraph (1).*

13 “(C) *SUBSTANTIAL ACTUARIAL VALUE FOR*
14 *ADDITIONAL SERVICES INCLUDED IN BENCHMARK*
15 *PACKAGE.—With respect to each of the following*
16 *categories of additional services for which cov-*
17 *erage is provided under the benchmark benefit*
18 *package used under subparagraph (B), the cov-*
19 *erage has an actuarial value that is equal to at*
20 *least 75 percent of the actuarial value of the cov-*
21 *erage of that category of services in such pack-*
22 *age:*

23 “(i) *Coverage of prescription drugs.*

24 “(ii) *Mental health services.*

25 “(iii) *Vision services.*

1 “(iv) *Hearing services.*

2 “(3) *DETERMINATION OF ACTUARIAL VALUE.—*

3 *The actuarial value of coverage of benchmark benefit*
4 *packages shall be set forth in an actuarial opinion in*
5 *an actuarial report that has been prepared—*

6 “(A) *by an individual who is a member of*
7 *the American Academy of Actuaries;*

8 “(B) *using generally accepted actuarial*
9 *principles and methodologies;*

10 “(C) *using a standardized set of utilization*
11 *and price factors;*

12 “(D) *using a standardized population that*
13 *is representative of the population involved;*

14 “(E) *applying the same principles and fac-*
15 *tors in comparing the value of different coverage*
16 *(or categories of services);*

17 “(F) *without taking into account any dif-*
18 *ferences in coverage based on the method of deliv-*
19 *ery or means of cost control or utilization used;*
20 *and*

21 “(G) *taking into account the ability of a*
22 *State to reduce benefits by taking into account*
23 *the increase in actuarial value of benefits cov-*
24 *erage offered under this title that results from the*
25 *limitations on cost sharing under such coverage.*

1 *The actuary preparing the opinion shall select and*
 2 *specify in the memorandum the standardized set and*
 3 *population to be used under subparagraphs (C) and*
 4 *(D).*

5 “(4) *COVERAGE OF RURAL HEALTH CLINIC AND*
 6 *FQHC SERVICES.—Notwithstanding the previous pro-*
 7 *visions of this section, a State may not provide for*
 8 *medical assistance through enrollment of an indi-*
 9 *vidual with benchmark coverage or benchmark equiva-*
 10 *lent coverage under this section unless—*

11 “(A) *the individual has access, through such*
 12 *coverage or otherwise, to services described in*
 13 *subparagraphs (B) and (C) of section*
 14 *1905(a)(2); and*

15 “(B) *payment for such services is made in*
 16 *accordance with the requirements of section*
 17 *1902(bb).”.*

18 **SEC. 3125. STATE OPTION TO ESTABLISH NON-EMERGENCY**

19 **MEDICAL TRANSPORTATION PROGRAM.**

20 (a) *IN GENERAL.—Section 1902(a) of the Social Secu-*
 21 *rity Act (42 U.S.C. 1396a(a)) is amended—*

22 (1) *in paragraph (66), by striking “and” at the*
 23 *end;*

24 (2) *in paragraph (67) by striking the period at*
 25 *the end and inserting “; and”; and*

1 (3) by inserting after paragraph (67) the fol-
2 lowing:

3 “(68) at the option of the State and notwith-
4 standing paragraph (10)(B) or (23), provide for the
5 establishment of a non-emergency medical transpor-
6 tation brokerage program in order to more cost-effec-
7 tively provide transportation for individuals eligible
8 for medical assistance under the State plan who need
9 access to medical care or services and have no other
10 means of transportation which—

11 “(A) may include a wheelchair van, taxi,
12 stretcher car, bus passes and tickets, secured
13 transportation, and such other transportation as
14 the Secretary determines appropriate; and

15 “(B) may be conducted under contract with
16 a broker who—

17 “(i) is selected through a competitive
18 bidding process based on the State’s evalua-
19 tion of the broker’s experience, performance,
20 references, resources, qualifications, and
21 costs;

22 “(ii) has oversight procedures to mon-
23 itor beneficiary access and complaints and
24 ensure that transport personnel are licensed,
25 qualified, competent, and courteous;

1 “(iii) is subject to regular auditing
2 and oversight by the State in order to en-
3 sure the quality of the transportation serv-
4 ices provided and the adequacy of bene-
5 ficiary access to medical care and services;
6 and

7 “(iv) complies with such requirements
8 related to prohibitions on referrals and con-
9 flict of interest as the Secretary shall estab-
10 lish (based on the prohibitions on physician
11 referrals under section 1877 and such other
12 prohibitions and requirements as the Sec-
13 retary determines to be appropriate).”.

14 (b) *EFFECTIVE DATE.*—The amendments made by sub-
15 section (a) take effect on the date of the enactment of this
16 Act.

17 (c) *IG REPORT ON UTILIZATION.*—Not later than Jan-
18 uary 1, 2007, the Inspector General of the Department of
19 Health and Human Services shall submit to Congress a re-
20 port that examines the non-emergency medical transpor-
21 tation brokerage programs implemented under section
22 1902(a)(68) of the Social Security Act, as inserted by sub-
23 section (a). The report shall include findings regarding con-
24 flicts of interest and improper utilization of transportation

1 *services under such programs, as well as recommendations*
 2 *for improvements in such programs.*

3 **SEC. 3126. EXEMPTING WOMEN COVERED UNDER BREAST**
 4 **OR CERVICAL CANCER PROGRAM.**

5 *Notwithstanding any other provision of law, none of*
 6 *provisions of the previous sections of this chapter, or*
 7 *amendments made by such sections, shall apply to women*
 8 *who are receiving medical assistance by virtue of the appli-*
 9 *cation of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa)*
 10 *of the Social Security Act (42 U.S.C.*
 11 *1396a(a)(10)(A)(ii)(XVIII), 1396a(aa)).*

12 **CHAPTER 4—EXPANDED ACCESS TO**
 13 **CERTAIN BENEFITS**

14 **SEC. 3131. EXPANDED ACCESS TO HOME AND COMMUNITY-**
 15 **BASED SERVICES FOR THE ELDERLY AND DIS-**
 16 **ABLED.**

17 *(a) IN GENERAL.—Section 1905(a) of the Social Secu-*
 18 *rity Act (42 U.S.C. 1396d(a)) is amended—*

19 *(1) in paragraph (27), by striking “and” at the*
 20 *end;*

21 *(2) by redesignating paragraph (28) as para-*
 22 *graph (29); and*

23 *(3) by inserting after paragraph (27) the fol-*
 24 *lowing new paragraph:*

1 “(28) *subject to section 1902(cc), home and com-*
2 *munity-based services (within the scope of services de-*
3 *scribed in paragraph (4)(B) of section 1915(c) for*
4 *which the Secretary has the authority to approve a*
5 *waiver and not including room and board) provided*
6 *pursuant to a written plan of care for individuals—*

7 “(A) *who are 65 years of age or older, who*
8 *are disabled (as defined under the State plan),*
9 *who are persons with developmental disabilities*
10 *or mental retardation or persons with related*
11 *conditions, or who are within a subgroup thereof*
12 *under the State plan;*

13 “(B) *with respect to whom there has been a*
14 *determination, in the manner described in para-*
15 *graph (1) of such section, that but for the provi-*
16 *sion of such services the individuals would re-*
17 *quire the level of care provided in a hospital, a*
18 *nursing facility, or an intermediate care facility*
19 *for the mentally retarded the cost of which could*
20 *be reimbursed under the State plan; and*

21 “(C) *who qualify for medical assistance*
22 *under the eligibility standards in effect in the*
23 *State (which may include standards in effect*
24 *under an approved waiver) as of the date of the*
25 *enactment of this paragraph; and”.*

1 (b) *CONDITIONS.—Section 1902 of such Act (42 U.S.C.*
2 *1396a) is amended by adding at the end the following new*
3 *subsection:*

4 “(cc) *PROVISION OF HOME AND COMMUNITY-BASED*
5 *SERVICES UNDER STATE PLAN.—*

6 “(1) *CONDITIONS.—A State may provide home*
7 *and community-based services under section*
8 *1905(a)(28), other than through a waiver or dem-*
9 *onstration project under section 1915 or 1115, only if*
10 *the following conditions are met:*

11 “(A) *EXPIRATION OF PREVIOUS WAIVER.—*
12 *Any State waiver or demonstration project*
13 *under either such section with respect to services*
14 *for individuals described in such section has ex-*
15 *pired.*

16 “(B) *INFORMATION.—The State must mon-*
17 *itor and report to the Secretary, in a form and*
18 *manner specified by the Secretary and on a*
19 *quarterly basis, enrollment and expenditures for*
20 *provision of such services under such section.*

21 “(2) *OPTIONS.—Notwithstanding any other pro-*
22 *vision of this title, in a State’s provision of services*
23 *under section 1905(a)(28)—*

24 “(A) *a State is not required to comply with*
25 *the requirements of section 1902(a)(1) (relating*

1 to statewideness), section 1902(a)(10)(B) (relat-
2 ing to comparability), and section
3 1902(a)(10)(C)(i)(III) (relating to income and
4 resource rules applicable in the community);

5 “(B) a State may limit the number of indi-
6 viduals who are eligible for such services and
7 may establish waiting lists for the receipt of such
8 services; and

9 “(C) a State may limit the amount, dura-
10 tion, and scope of such services.

11 Nothing in this section shall be construed as applying
12 the previous sentence to any items or services other
13 than home and community-based services provided
14 under section 1905(a)(28).

15 “(3) USE OF ELECTRONIC DATA.—The State
16 shall permit health care providers to comply with
17 documentation and data requirements imposed with
18 respect to home and community-based services
19 through the maintenance of data in electronic form
20 rather than in paper form.”.

21 (c) EFFECTIVE DATE.—The amendments made by this
22 section shall apply to home and community-based services
23 furnished on or after October 1, 2006.

1 **SEC. 3132. OPTIONAL CHOICE OF SELF-DIRECTED PER-**
2 **SONAL ASSISTANCE SERVICES (CASH AND**
3 **COUNSELING).**

4 (a) *EXEMPTION FROM CERTAIN REQUIREMENTS.—*
5 *Section 1915 of the Social Security Act (42 U.S.C. 1396n)*
6 *is amended by adding at the end the following new sub-*
7 *section:*

8 “(i)(1) *A State may provide, as ‘medical assistance’,*
9 *payment for part or all of the cost of self-directed personal*
10 *assistance services (other than room and board) under the*
11 *plan which are provided pursuant to a written plan of care*
12 *to individuals with respect to whom there has been a deter-*
13 *mination that, but for the provision of such services, the*
14 *individuals would require and receive personal care services*
15 *under the plan, or home and community-based services pro-*
16 *vided pursuant to a waiver under subsection (c). Self-di-*
17 *rected personal assistance services may not be provided*
18 *under this subsection to individuals who reside in a home*
19 *or property that is owned, operated, or controlled by a pro-*
20 *vider of services, not related by blood or marriage.*

21 “(2) *The Secretary shall not grant approval for a State*
22 *self-directed personal assistance services program under this*
23 *section unless the State provides assurances satisfactory to*
24 *the Secretary of the following:*

25 “(A) *Necessary safeguards have been taken to*
26 *protect the health and welfare of individuals provided*

1 *services under the program, and to assure financial*
2 *accountability for funds expended with respect to such*
3 *services.*

4 *“(B) The State will provide, with respect to in-*
5 *dividuals who—*

6 *“(i) are entitled to medical assistance for*
7 *personal care services under the plan, or receive*
8 *home and community-based services under a*
9 *waiver granted under subsection (c);*

10 *“(ii) may require self-directed personal as-*
11 *sistance services; and*

12 *“(iii) may be eligible for self-directed per-*
13 *sonal assistance services,*

14 *an evaluation of the need for personal care under the*
15 *plan, or personal services under a waiver granted*
16 *under subsection (c).*

17 *“(C) Such individuals who are determined to be*
18 *likely to require personal care under the plan, or*
19 *home and community-based services under a waiver*
20 *granted under subsection (c) are informed of the fea-*
21 *sible alternatives, if available under the State’s self-*
22 *directed personal assistance services program, at the*
23 *choice of such individuals, to the provision of personal*
24 *care services under the plan, or personal assistance*
25 *services under a waiver granted under subsection (c).*

1 “(D) *The State will provide for a support system*
2 *that ensures participants in the self-directed personal*
3 *assistance services program are appropriately assessed*
4 *and counseled prior to enrollment and are able to*
5 *manage their budgets. Additional counseling and*
6 *management support may be provided at the request*
7 *of the participant.*

8 “(E) *The State will provide to the Secretary an*
9 *annual report on the number of individuals served*
10 *and total expenditures on their behalf in the aggre-*
11 *gate. The State shall also provide an evaluation of*
12 *overall impact on the health and welfare of partici-*
13 *parting individuals compared to non-participants*
14 *every three years.*

15 “(3) *A State may provide self-directed personal assist-*
16 *ance services under the State plan without regard to the*
17 *requirements of section 1902(a)(1) and may limit the popu-*
18 *lation eligible to receive these services and limit the number*
19 *of persons served without regard to section 1902(a)(10)(B).*

20 “(4)(A) *For purposes of this subsection, the term ‘self-*
21 *directed personal assistance services’ means personal care*
22 *and related services, or home and community-based services*
23 *otherwise available under the plan under this title or sub-*
24 *section (c), that are provided to an eligible participant*
25 *under a self-directed personal assistance services program*

1 *under this section, under which individuals, within an ap-*
2 *proved self-directed services plan and budget, purchase per-*
3 *sonal assistance and related services, and permits partici-*
4 *pants to hire, fire, supervise, and manage the individuals*
5 *providing such services.*

6 “(B) *At the election of the State—*

7 “(i) *a participant may choose to use any indi-*
8 *vidual capable of providing the assigned tasks includ-*
9 *ing legally liable relatives as paid providers of the*
10 *services; and*

11 “(ii) *the individual may use the individual’s*
12 *budget to acquire items that increase independence or*
13 *substitute (such as a microwave oven or an accessi-*
14 *bility ramp) for human assistance, to the extent that*
15 *expenditures would otherwise be made for the human*
16 *assistance.*

17 “(5) *For purpose of this section, the term ‘approved*
18 *self-directed services plan and budget’ means, with respect*
19 *to a participant, the establishment of a plan and budget*
20 *for the provision of self-directed personal assistance services,*
21 *consistent with the following requirements:*

22 “(A) *SELF-DIRECTION.—The participant (or in*
23 *the case of a participant who is a minor child, the*
24 *participant’s parent or guardian, or in the case of an*
25 *incapacitated adult, another individual recognized by*

1 *State law to act on behalf of the participant) exercises*
2 *choice and control over the budget, planning, and*
3 *purchase of self-directed personal assistance services,*
4 *including the amount, duration, scope, provider, and*
5 *location of service provision.*

6 “(B) *ASSESSMENT OF NEEDS.*—*There is an as-*
7 *essment of the needs, strengths, and preferences of the*
8 *participants for such services.*

9 “(C) *SERVICE PLAN.*—*A plan for such services*
10 *(and supports for such services) for the participant*
11 *has been developed and approved by the State based*
12 *on such assessment through a person-centered process*
13 *that—*

14 “(i) *builds upon the participant’s capacity*
15 *to engage in activities that promote community*
16 *life and that respects the participant’s pref-*
17 *erences, choices, and abilities; and*

18 “(ii) *involves families, friends, and profes-*
19 *sionals in the planning or delivery of services or*
20 *supports as desired or required by the partici-*
21 *pant.*

22 “(D) *SERVICE BUDGET.*—*A budget for such serv-*
23 *ices and supports for the participant has been devel-*
24 *oped and approved by the State based on such assess-*
25 *ment and plan and on a methodology that uses valid,*

1 *reliable cost data, is open to public inspection, and*
2 *includes a calculation of the expected cost of such*
3 *services if those services were not self-directed. The*
4 *budget may not restrict access to other medically nec-*
5 *essary care and services furnished under the plan and*
6 *approved by the State but not included in the budget.*

7 *“(E) APPLICATION OF QUALITY ASSURANCE AND*
8 *RISK MANAGEMENT.—There are appropriate quality*
9 *assurance and risk management techniques used in*
10 *establishing and implementing such plan and budget*
11 *that recognize the roles and responsibilities in obtain-*
12 *ing services in a self-directed manner and assure the*
13 *appropriateness of such plan and budget based upon*
14 *the participant’s resources and capabilities.*

15 *“(6) A State may employ a financial management en-*
16 *tity to make payments to providers, track costs, and make*
17 *reports under the program. Payment for the activities of*
18 *the financial management entity shall be at the administra-*
19 *tive rate established in section 1903(a).”.*

20 *(b) EFFECTIVE DATE.—The amendment made by sub-*
21 *section (a) shall apply to services furnished on or after Jan-*
22 *uary 1, 2006.*

1 **SEC. 3133. EXPANSION OF STATE LONG-TERM CARE PART-**
 2 **nership Program.**

3 (a) *IN GENERAL.*—Section 1917(b)(1)(C) of the Social
 4 Security Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

5 (1) in clause (ii), by inserting “or which has a
 6 State plan amendment that provides for a qualified
 7 State long-term care insurance partnership (as de-
 8 fined in clause (iii))” after “1993,”; and

9 (2) by adding at the end the following new
 10 clauses:

11 “(iii) For purposes of this paragraph, the term
 12 ‘qualified State long-term care insurance partnership’
 13 means an approved State plan amendment under this
 14 title that provides for the disregard of any assets or
 15 resources in an amount equal to the insurance benefit
 16 payments that are made to or on behalf of an indi-
 17 vidual who is a beneficiary under a long-term care
 18 insurance policy (including a certificate issued under
 19 a group insurance contract), if the following require-
 20 ments are met:

21 “(I) The policy covers an insured who was
 22 a resident of such State when coverage first be-
 23 came effective under the policy.

24 “(II) The policy is a qualified long-term
 25 care insurance policy (as defined in section
 26 7702B(b) of the Internal Revenue Code of 1986)

1 *issued on or after the first day of the first cal-*
2 *endar quarter in which the plan amendment was*
3 *submitted to the Secretary.*

4 “(III) *If the policy does not provide some*
5 *level of inflation protection, the insured was of-*
6 *fered, before the policy was sold, a long-term care*
7 *insurance policy that provides some level of in-*
8 *flation protection.*

9 “(IV) *The State Medicaid agency under sec-*
10 *tion 1902(a)(5) provides information and tech-*
11 *nical assistance to the State insurance depart-*
12 *ment on the insurance department’s role of as-*
13 *suming that any individual who sells a long-term*
14 *care insurance policy under the partnership re-*
15 *ceives training or demonstrates evidence of an*
16 *understanding of such policies and how they re-*
17 *late to other public and private coverage of long-*
18 *term care.*

19 “(V) *The issuer of the policy provides reg-*
20 *ular reports to the Secretary that include, in ac-*
21 *cordance with regulations of the Secretary (pro-*
22 *mulgated after consultation with the States), no-*
23 *tification regarding when all benefits provided*
24 *under the policy have been paid and the amount*
25 *of such benefits paid, when the policy otherwise*

1 *terminates, and such other information as the*
2 *Secretary determines may be appropriate to the*
3 *administration of such partnerships.*

4 “(VI) *The State does not impose any re-*
5 *quirement affecting the terms or benefits of such*
6 *a policy unless the State imposes such require-*
7 *ment on long-term care insurance policies with-*
8 *out regard to whether the policy is covered under*
9 *the partnership or is offered in connection with*
10 *such a partnership.*

11 *In the case of a long-term care insurance policy*
12 *which is exchanged for another such policy, subclause*
13 *(I) shall be applied based on the coverage of the first*
14 *such policy that was exchanged.*

15 “(iv) *The Secretary—*

16 “(I) *as appropriate, shall provide copies of*
17 *the reports described in clause (iii)(V) to the*
18 *State involved; and*

19 “(II) *shall promote the education of con-*
20 *sumers regarding qualified State long-term care*
21 *insurance partnerships.*

22 “(v) *The Secretary, in consultation with other*
23 *appropriate Federal agencies, issuers of long-term*
24 *care insurance, the National Association of Insurance*
25 *Commissioners, and State insurance commissioners,*

1 *shall develop recommendations for Congress to author-*
2 *ize and fund a uniform minimum data set to be re-*
3 *ported electronically by all issuers of long-term care*
4 *insurance policies under qualified State long-term*
5 *care insurance partnerships to a secure, centralized*
6 *electronic query and report-generating mechanism*
7 *that the State, the Secretary, and other Federal agen-*
8 *cies can access.”.*

9 **(b) CONSTRUCTION.**—*Nothing in the amendments*
10 *made by subsection (a) shall be construed as affecting the*
11 *treatment of long-term care insurance policies that will be,*
12 *are, or were provided under a State plan amendment de-*
13 *scribed in section 1917(b)(1)(C)(ii) of the Social Security*
14 *Act that was approved as of May 14, 1993.*

15 **(c) EFFECTIVE DATE.**—*A State plan amendment that*
16 *provides for a qualified State long-term care insurance*
17 *partnership under the amendments made by subsection (a)*
18 *may provide that such amendment is effective for long-term*
19 *care insurance policies issued on or after a date, specified*
20 *in the amendment, that is not earlier than the first day*
21 *of the first calendar quarter in which the plan amendment*
22 *was submitted to the Secretary of Health and Human Serv-*
23 *ices.*

24 **(d) STANDARDS FOR RECIPROCAL RECOGNITION**
25 **AMONG PARTNERSHIP STATES.**—*In order to permit port-*

1 *ability in long-term care insurance policies purchased*
 2 *under State long-term care insurance partnerships, the Sec-*
 3 *retary of Health and Human Services may develop, in con-*
 4 *sultation with the States and the National Association of*
 5 *Insurance Commissioners, uniform standards for reciprocal*
 6 *recognition of such policies among States with qualified*
 7 *State long-term care insurance partnerships.*

8 **SEC. 3134. HEALTH OPPORTUNITY ACCOUNTS.**

9 *Title XIX of the Social Security Act, as amended by*
 10 *section 3124, is amended—*

11 *(1) by redesignating section 1937 as section*
 12 *1938; and*

13 *(2) by inserting after section 1936 the following*
 14 *new section:*

15 *“HEALTH OPPORTUNITY ACCOUNTS*

16 *“SEC. 1937. (a) AUTHORITY.—*

17 *“(1) IN GENERAL.—Notwithstanding any other*
 18 *provision of this title, the Secretary shall establish a*
 19 *demonstration program under which States may pro-*
 20 *vide under their State plans under this title (includ-*
 21 *ing such a plan operating under a statewide waiver*
 22 *under section 1115) in accordance with this section*
 23 *for the provision of alternative benefits consistent*
 24 *with subsection (c) for eligible population groups in*
 25 *one or more geographic areas of the State specified by*
 26 *the State. An amendment under the previous sentence*

1 *is referred to in this section as a ‘State demonstration*
2 *program’.*

3 “(2) *INITIAL DEMONSTRATION.—The demonstra-*
4 *tion program under this section shall begin on Janu-*
5 *ary 1, 2006. During the first 5 years of such pro-*
6 *gram, the Secretary shall not approve more than 10*
7 *State demonstration programs, with each State dem-*
8 *onstration program covering one or more geographic*
9 *areas specified by the State. After such 5-year pe-*
10 *riod—*

11 “(A) *unless the Secretary finds, taking into*
12 *account cost-effectiveness, quality of care, and*
13 *other criteria that the Secretary specifies, that a*
14 *State demonstration program previously imple-*
15 *mented has been unsuccessful, such a demonstra-*
16 *tion program may be extended or made perma-*
17 *nent in the State; and*

18 “(B) *unless the Secretary finds, taking into*
19 *account cost-effectiveness, quality of care, and*
20 *other criteria that the Secretary specifies, that*
21 *all State demonstration programs previously im-*
22 *plemented were unsuccessful, other States may*
23 *implement State demonstration programs.*

1 “(3) *APPROVAL.*—*The Secretary shall not ap-*
2 *prove a State demonstration program under para-*
3 *graph (1) unless the program includes the following:*

4 “(A) *Creating patient awareness of the high*
5 *cost of medical care.*

6 “(B) *Providing incentives to patients to*
7 *seek preventive care services.*

8 “(C) *Reducing inappropriate use of health*
9 *care services.*

10 “(D) *Enabling patients to take responsi-*
11 *bility for health outcomes.*

12 “(E) *Providing enrollment counselors and*
13 *ongoing education activities.*

14 “(F) *Providing transactions involving*
15 *health opportunity accounts to be conducted elec-*
16 *tronically and without cash.*

17 “(G) *Providing access to negotiated pro-*
18 *vider payment rates consistent with this section.*

19 *Nothing in this section shall be construed as pre-*
20 *venting a State demonstration program from pro-*
21 *viding incentives for patients obtaining appropriate*
22 *preventive care (as defined for purposes of section*
23 *223(c)(2)(C) of the Internal Revenue Code of 1986),*
24 *such as additional account contributions for an indi-*
25 *vidual demonstrating healthy prevention practices.*

1 “(4) *NO REQUIREMENT FOR STATEWIDENESS.*—
2 *Nothing in this section or any other provision of law*
3 *shall be construed to require that a State must pro-*
4 *vide for the implementation of a State demonstration*
5 *program on a Statewide basis.*

6 “(5) *REPORTS.*—*The Secretary shall periodically*
7 *submit to Congress reports regarding the success of*
8 *State demonstration programs.*

9 “(b) *ELIGIBLE POPULATION GROUPS.*—

10 “(1) *IN GENERAL.*—*A State demonstration pro-*
11 *gram under this section shall specify the eligible pop-*
12 *ulation groups consistent with paragraphs (2) and*
13 *(3).*

14 “(2) *ELIGIBILITY LIMITATIONS DURING INITIAL*
15 *DEMONSTRATION PERIOD.*—*During the initial 5 years*
16 *of the demonstration program under this section, a*
17 *State demonstration program shall not apply to any*
18 *of the following individuals:*

19 “(A) *Individuals who are 65 years of age or*
20 *older.*

21 “(B) *Individuals who are disabled, regard-*
22 *less of whether or not their eligibility for medical*
23 *assistance under this title is based on such dis-*
24 *ability.*

1 “(C) *Individuals who are eligible for med-*
2 *ical assistance under this title only because they*
3 *are (or were within the previous 60 days) preg-*
4 *nant.*

5 “(D) *Individuals who have been eligible for*
6 *medical assistance for a continuous period of less*
7 *than 3 months.*

8 “(3) *ADDITIONAL LIMITATIONS.—A State dem-*
9 *onstration program shall not apply to any individual*
10 *within a category of individuals described in section*
11 *1936(a)(2)(B).*

12 “(4) *LIMITATIONS.—*

13 “(A) *STATE OPTION.—This subsection shall*
14 *not be construed as preventing a State from fur-*
15 *ther limiting eligibility.*

16 “(B) *ON ENROLLEES IN MEDICAID MAN-*
17 *AGED CARE ORGANIZATIONS.—Insofar as the*
18 *State provides for eligibility of individuals who*
19 *are enrolled in medicaid managed care organiza-*
20 *tions, such individuals may participate in the*
21 *State demonstration program only if the State*
22 *provides assurances satisfactory to the Secretary*
23 *that the following conditions are met with re-*
24 *spect to any such organization:*

1 “(i) *In no case may the number of*
2 *such individuals enrolled in the organiza-*
3 *tion who participate in the program exceed*
4 *5 percent of the total number of individuals*
5 *enrolled in such organization.*

6 “(ii) *The proportion of enrollees in the*
7 *organization who so participate is not sig-*
8 *nificantly disproportionate to the propor-*
9 *tion of such enrollees in other such organi-*
10 *zations who participate.*

11 “(iii) *The State has provided for an*
12 *appropriate adjustment in the per capita*
13 *payments to the organization to account for*
14 *such participation, taking into account dif-*
15 *ferences in the likely use of health services*
16 *between enrollees who so participate and en-*
17 *rollees who do not so participate.*

18 “(5) *VOLUNTARY PARTICIPATION.—An eligible*
19 *individual shall be enrolled in a State demonstration*
20 *program only if the individual voluntarily enrolls.*
21 *Except in such hardship cases as the Secretary shall*
22 *specify, such an enrollment shall be effective for a pe-*
23 *riod of 12 months, but may be extended for additional*
24 *periods of 12 months each with the consent of the in-*
25 *dividual.*

1 “(c) *ALTERNATIVE BENEFITS.*—

2 “(1) *IN GENERAL.*—*The alternative benefits pro-*
3 *vided under this section shall consist, consistent with*
4 *this subsection, of at least—*

5 “(A) *coverage for medical expenses in a*
6 *year for items and services for which benefits are*
7 *otherwise provided under this title after an an-*
8 *annual deductible described in paragraph (2) has*
9 *been met; and*

10 “(B) *contribution into a health opportunity*
11 *account.*

12 *Nothing in subparagraph (A) shall be construed as*
13 *preventing a State from providing for coverage of pre-*
14 *ventive care (referred to in subsection (a)(3)) within*
15 *the alternative benefits without regard to the annual*
16 *deductible.*

17 “(2) *ANNUAL DEDUCTIBLE.*—*The amount of the*
18 *annual deductible described in paragraph (1)(A) shall*
19 *be at least 100 percent, but no more than 110 percent,*
20 *of the annualized amount of contributions to the*
21 *health opportunity account under subsection*
22 *(d)(2)(A)(i), determined without regard to any limi-*
23 *tation described in subsection (d)(2)(C)(i)(II).*

24 “(3) *ACCESS TO NEGOTIATED PROVIDER PAY-*
25 *MENT RATES.*—

1 “(A) *FEE-FOR-SERVICE ENROLLEES.*—*In*
2 *the case of an individual who is participating in*
3 *a State demonstration program and who is not*
4 *enrolled with a medicaid managed care organi-*
5 *zation, the State shall provide that the indi-*
6 *vidual may obtain demonstration program med-*
7 *icaid services from—*

8 “(i) *any participating provider under*
9 *this title at the same payment rates that*
10 *would be applicable to such services if the*
11 *deductible described in paragraph (1)(A)*
12 *was not applicable; or*

13 “(ii) *any provider at payment rates*
14 *that do not exceed 125 percent of the pay-*
15 *ment rate that would be applicable to such*
16 *services furnished by a participating pro-*
17 *vider under this title if the deductible de-*
18 *scribed in paragraph (1)(A) was not appli-*
19 *cable.*

20 “(B) *TREATMENT UNDER MEDICAID MAN-*
21 *AGED CARE PLANS.*—*In the case of an individual*
22 *who is participating in a State demonstration*
23 *program and is enrolled with a medicaid man-*
24 *aged care organization, the State shall enter into*
25 *an arrangement with the organization under*

1 *which the individual may obtain demonstration*
2 *program medicaid services from any provider*
3 *under such organization at payment rates that*
4 *do not exceed the payment rate that would be ap-*
5 *plicable to such services if the deductible de-*
6 *scribed in paragraph (1)(A) was not applicable.*

7 “(C) *COMPUTATION.*—*The payment rates*
8 *described in subparagraphs (A) and (B) shall be*
9 *computed without regard to any cost sharing*
10 *that would be otherwise applicable under sections*
11 *1916 and 1916A.*

12 “(D) *DEFINITIONS.*—*For purposes of this*
13 *paragraph:*

14 “(i) *The term ‘demonstration program*
15 *medicaid services’ means, with respect to an*
16 *individual participating in a State dem-*
17 *onstration program, services for which the*
18 *individual would be provided medical as-*
19 *sistance under this title but for the applica-*
20 *tion of the deductible described in para-*
21 *graph (1)(A).*

22 “(ii) *The term ‘participating provider’*
23 *means—*

24 “(I) *with respect to an individual*
25 *described in subparagraph (A), a*

1 *health care provider that has entered*
 2 *into a participation agreement with*
 3 *the State for the provision of services*
 4 *to individuals entitled to benefits*
 5 *under the State plan; or*

6 “(II) *with respect to an indi-*
 7 *vidual described in subparagraph (B)*
 8 *who is enrolled in a medicaid managed*
 9 *care organization, a health care pro-*
 10 *vider that has entered into an arrange-*
 11 *ment for the provision of services to en-*
 12 *rollees of the organization under this*
 13 *title.*

14 “(4) *NO EFFECT ON SUBSEQUENT BENEFITS.—*
 15 *Except as provided under paragraphs (1) and (2), al-*
 16 *ternative benefits for an eligible individual shall con-*
 17 *sist of the benefits otherwise provided to the indi-*
 18 *vidual, including cost sharing relating to such bene-*
 19 *fits.*

20 “(5) *OVERRIDING COST SHARING AND COM-*
 21 *PARABILITY REQUIREMENTS FOR ALTERNATIVE BENE-*
 22 *FITS.—The provisions of this title relating to cost*
 23 *sharing for benefits (including sections 1916 and*
 24 *1916A) shall not apply with respect to benefits to*
 25 *which the annual deductible under paragraph (1)(A)*

1 *applies. The provisions of section 1902(a)(10)(B) (re-*
2 *lating to comparability) shall not apply with respect*
3 *to the provision of alternative benefits (as described in*
4 *this subsection).*

5 “(6) *TREATMENT AS MEDICAL ASSISTANCE.—*
6 *Subject to subparagraphs (D) and (E) of subsection*
7 *(d)(2), payments for alternative benefits under this*
8 *section (including contributions into a health oppor-*
9 *tunity account) shall be treated as medical assistance*
10 *for purposes of section 1903(a).*

11 “(7) *USE OF TIERED DEDUCTIBLE AND COST*
12 *SHARING.—*

13 “(A) *IN GENERAL.—A State—*

14 “(i) *may vary the amount of the an-*
15 *nuual deductible applied under paragraph*
16 *(1)(A) based on the income of the family in-*
17 *volved so long as it does not favor families*
18 *with higher income over those with lower*
19 *income; and*

20 “(ii) *may vary the amount of the max-*
21 *imum out-of-pocket cost sharing (as defined*
22 *in subparagraph (B)) based on the income*
23 *of the family involved so long as it does not*
24 *favor families with higher income over those*
25 *with lower income.*

1 “(B) *MAXIMUM OUT-OF-POCKET COST SHAR-*
2 *ING.—For purposes of subparagraph (A)(ii), the*
3 *term ‘maximum out-of-pocket cost sharing’*
4 *means, for an individual or family, the amount*
5 *by which the annual deductible level applied*
6 *under paragraph (1)(A) to the individual or*
7 *family exceeds the balance in the health oppor-*
8 *tunity account for the individual or family.*

9 “(8) *CONTRIBUTIONS BY EMPLOYERS.—Nothing*
10 *in this section shall be construed as preventing an*
11 *employer from providing health benefits coverage con-*
12 *sisting of the coverage described in paragraph (1)(A)*
13 *to individuals who are provided alternative benefits*
14 *under this section.*

15 “(d) *HEALTH OPPORTUNITY ACCOUNT.—*

16 “(1) *IN GENERAL.—For purposes of this section,*
17 *the term ‘health opportunity account’ means an ac-*
18 *count that meets the requirements of this subsection.*

19 “(2) *CONTRIBUTIONS.—*

20 “(A) *IN GENERAL.—No contribution may be*
21 *made into a health opportunity account except—*

22 “(i) *contributions by the State under*
23 *this title; and*

1 “(i) contributions by other persons
2 and entities, such as charitable organiza-
3 tions.

4 “(B) STATE CONTRIBUTION.—A State shall
5 specify the contribution amount that shall be de-
6 posited under subparagraph (A)(i) into a health
7 opportunity account.

8 “(C) LIMITATION ON ANNUAL STATE CON-
9 TRIBUTION PROVIDED AND PERMITTING IMPOSI-
10 TION OF MAXIMUM ACCOUNT BALANCE.—

11 “(i) IN GENERAL.—A State—

12 “(I) may impose limitations on
13 the maximum contributions that may
14 be deposited under subparagraph
15 (A)(i) into a health opportunity ac-
16 count in a year;

17 “(II) may limit contributions into
18 such an account once the balance in
19 the account reaches a level specified by
20 the State; and

21 “(III) subject to clauses (i) and
22 (iii) and subparagraph (D)(i), may
23 not provide contributions described in
24 subparagraph (A)(i) to a health oppor-
25 tunity account on behalf of an indi-

1 *vidual or family to the extent the*
2 *amount of such contributions (includ-*
3 *ing both State and Federal shares) ex-*
4 *ceeds, on an annual basis, \$2,500 for*
5 *each individual (or family member)*
6 *who is an adult and \$1,000 for each*
7 *individual (or family member) who is*
8 *a child.*

9 *“(ii) INDEXING OF DOLLAR LIMITA-*
10 *TIONS.—For each year after 2006, the dol-*
11 *lar amounts specified in clause (i)(III) shall*
12 *be annually increased by the Secretary by a*
13 *percentage that reflects the annual percent-*
14 *age increase in the medical care component*
15 *of the consumer price index for all urban*
16 *consumers.*

17 *“(iii) BUDGET NEUTRAL ADJUST-*
18 *MENT.—A State may provide for dollar*
19 *limitations in excess of those specified in*
20 *clause (i)(III) (as increased under clause*
21 *(ii)) for specified individuals if the State*
22 *provides assurances satisfactory to the Sec-*
23 *retary that contributions otherwise made to*
24 *other individuals will be reduced in a man-*
25 *ner so as to provide for aggregate contribu-*

1 *tions that do not exceed the aggregate con-*
 2 *tributions that would otherwise be permitted*
 3 *under this subparagraph.*

4 “(D) *LIMITATIONS ON FEDERAL MATCH-*
 5 *ING.—*

6 “(i) *STATE CONTRIBUTION.—A State*
 7 *may contribute under subparagraph (A)(i)*
 8 *amounts to a health opportunity account in*
 9 *excess of the limitations provided under sub-*
 10 *paragraph (C)(i)(III), but no Federal fi-*
 11 *ancial participation shall be provided*
 12 *under section 1903(a) with respect to con-*
 13 *tributions in excess of such limitations.*

14 “(ii) *NO FFP FOR PRIVATE CONTRIBU-*
 15 *TIONS.—No Federal financial participation*
 16 *shall be provided under section 1903(a)*
 17 *with respect to any contributions described*
 18 *in subparagraph (A)(i) to a health oppor-*
 19 *tunity account.*

20 “(E) *APPLICATION OF DIFFERENT MATCH-*
 21 *ING RATES.—The Secretary shall provide a*
 22 *method under which, for expenditures made from*
 23 *a health opportunity account for medical care*
 24 *for which the Federal matching rate under sec-*
 25 *tion 1903(a) exceeds the Federal medical assist-*

1 *ance percentage, a State may obtain payment*
 2 *under such section at such higher matching rate*
 3 *for such expenditures.*

4 “(3) *USE.—*

5 “(A) *GENERAL USES.—*

6 “(i) *IN GENERAL.—Subject to the suc-*
 7 *ceeding provisions of this paragraph,*
 8 *amounts in a health opportunity account*
 9 *may be used for payment of such health*
 10 *care expenditures as the State specifies.*

11 “(ii) *GENERAL LIMITATION.—In no*
 12 *case shall such account be used for payment*
 13 *for health care expenditures that are not*
 14 *payment of medical care (as defined by sec-*
 15 *tion 213(d) of the Internal Revenue Code of*
 16 *1986).*

17 “(iii) *STATE RESTRICTIONS.—In ap-*
 18 *plying clause (i), a State may restrict pay-*
 19 *ment for—*

20 “(I) *providers of items and serv-*
 21 *ices to providers that are licensed or*
 22 *otherwise authorized under State law*
 23 *to provide the item or service and may*
 24 *deny payment for such a provider on*
 25 *the basis that the provider has been*

1 *found, whether with respect to this title*
2 *or any other health benefit program, to*
3 *have failed to meet quality standards*
4 *or to have committed one or more acts*
5 *of fraud or abuse; and*

6 “(II) *items and services insofar as*
7 *the State finds they are not medically*
8 *appropriate or necessary.*

9 “(iv) *ELECTRONIC WITHDRAWALS.—*
10 *The State demonstration program shall pro-*
11 *vide for a method whereby withdrawals may*
12 *be made from the account for such purposes*
13 *using an electronic system and shall not*
14 *permit withdrawals from the account in*
15 *cash.*

16 “(B) *MAINTENANCE OF HEALTH OPPOR-*
17 *TUNITY ACCOUNT AFTER BECOMING INELIGIBLE*
18 *FOR PUBLIC BENEFIT.—*

19 “(i) *IN GENERAL.—Notwithstanding*
20 *any other provision of law, if an account*
21 *holder of a health opportunity account be-*
22 *comes ineligible for benefits under this title*
23 *because of an increase in income or assets—*

1 “(I) no additional contribution
2 shall be made into the account under
3 paragraph (2)(A)(i);

4 “(II) subject to clause (iii), the
5 balance in the account shall be reduced
6 by 25 percent; and

7 “(III) subject to the succeeding
8 provisions of this subparagraph, the
9 account shall remain available to the
10 account holder for withdrawals under
11 the same terms and conditions as if the
12 account holder remained eligible for
13 such benefits.

14 “(ii) *SPECIAL RULES.*—Withdrawals
15 under this subparagraph from an account—

16 “(I) shall be available for the pur-
17 chase of health insurance coverage; and

18 “(II) may, subject to clause (iv),
19 be made available (at the option of the
20 State) for such additional expenditures
21 (such as job training and tuition ex-
22 penses) specified by the State (and ap-
23 proved by the Secretary) as the State
24 may specify.

1 “(iii) *EXCEPTION FROM 25 PERCENT*
2 *SAVINGS TO GOVERNMENT FOR PRIVATE*
3 *CONTRIBUTIONS.—Clause (i)(II) shall not*
4 *apply to the portion of the account that is*
5 *attributable to contributions described in*
6 *paragraph (2)(A)(i). For purposes of ac-*
7 *counting for such contributions, with-*
8 *drawals from a health opportunity account*
9 *shall first be attributed to contributions de-*
10 *scribed in paragraph (2)(A)(i).*

11 “(iv) *CONDITION FOR NON-HEALTH*
12 *WITHDRAWALS.—No withdrawal may be*
13 *made from an account under clause (ii)(II)*
14 *unless the accountholder has participated in*
15 *the program under this section for at least*
16 *1 year.*

17 “(v) *NO REQUIREMENT FOR CONTINU-*
18 *ATION OF COVERAGE.—An account holder of*
19 *a health opportunity account, after becom-*
20 *ing ineligible for medical assistance under*
21 *this title, is not required to purchase high-*
22 *deductible or other insurance as a condition*
23 *of maintaining or using the account.*

24 “(4) *ADMINISTRATION.—A State may coordinate*
25 *administration of health opportunity accounts*

1 *through the use of a third party administrator and*
 2 *reasonable expenditures for the use of such adminis-*
 3 *trator shall be reimbursable to the State in the same*
 4 *manner as other administrative expenditures under*
 5 *section 1903(a)(7).*

6 “(5) *TREATMENT.*—*Amounts in, or contributed*
 7 *to, a health opportunity account shall not be counted*
 8 *as income or assets for purposes of determining eligi-*
 9 *bility for benefits under this title.*

10 “(6) *UNAUTHORIZED WITHDRAWALS.*—*A State*
 11 *may establish procedures—*

12 “(A) *to penalize or remove an individual*
 13 *from the health opportunity account based on*
 14 *nonqualified withdrawals by the individual from*
 15 *such an account; and*

16 “(B) *to recoup costs that derive from such*
 17 *nonqualified withdrawals.”.*

18 **CHAPTER 5—OTHER PROVISIONS**

19 **SEC. 3141. INCREASE IN MEDICAID PAYMENTS TO INSULAR**
 20 **AREAS.**

21 *Section 1108(g) of the Social Security Act (42 U.S.C.*
 22 *1308(g)) is amended—*

23 (1) *in paragraph (2), by inserting “and subject*
 24 *to paragraph (3)” after “subsection (f)”;* and

1 (2) by adding at the end the following new para-
2 graph:

3 “(3) *FISCAL YEARS 2006 AND 2007 FOR CERTAIN*
4 *INSULAR AREAS.—The amounts otherwise determined*
5 *under this subsection for Puerto Rico, the Virgin Is-*
6 *lands, Guam, the Northern Mariana Islands, and*
7 *American Samoa for fiscal year 2006 and fiscal year*
8 *2007 shall be increased by the following amounts:*

9 “(A) *For Puerto Rico, \$12,000,000 for fiscal*
10 *year 2006 and \$12,000,000 for fiscal year 2007.*

11 “(B) *For the Virgin Islands, \$2,500,000 for*
12 *fiscal year 2006 and \$5,000,000 for fiscal year*
13 *2007.*

14 “(C) *For Guam, \$2,500,000 for fiscal year*
15 *2006 and \$5,000,000 for fiscal year 2007.*

16 “(D) *For the Northern Mariana Islands,*
17 *\$1,000,000 for fiscal year 2006 and \$2,000,000*
18 *for fiscal year 2007.*

19 “(E) *For American Samoa, \$2,000,000 for*
20 *fiscal year 2006 and \$4,000,000 for fiscal year*
21 *2007.*

22 *Such amounts shall not be taken into account in ap-*
23 *plying paragraph (2) for fiscal year 2007 but shall be*
24 *taken into account in applying such paragraph for*
25 *fiscal year 2008 and subsequent fiscal years.”.*

1 **SEC. 3142. MANAGED CARE ORGANIZATION PROVIDER TAX**
2 **REFORM.**

3 (a) *IN GENERAL.*—Section 1903(w)(7)(A)(viii) of the
4 Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is
5 amended to read as follows:

6 “(viii) Services of managed care organiza-
7 tions (including health maintenance organiza-
8 tions, preferred provider organizations, and such
9 other similar organizations as the Secretary may
10 specify by regulation).”.

11 (b) *EFFECTIVE DATE.*—

12 (1) *IN GENERAL.*—Subject to paragraph (2), the
13 amendment made by subsection (a) shall be effective
14 as of the date of the enactment of this Act.

15 (2) *GRANDFATHER.*—

16 (A) *IN GENERAL.*—Subject to subparagraph
17 (B), in the case of a State that has had approved
18 as of the date of the enactment of this Act a pro-
19 vider tax on services described in section
20 1903(w)(7)(A)(viii) of the Social Security Act,
21 as amended by subsection (a), such amendment
22 shall be effective as of October 1, 2008.

23 (B) *TRANSITION RULE FOR FISCAL YEAR*
24 *2009.*—In the case of a State described in sub-
25 paragraph (A), the amount of any reduction in
26 payment under subsection (a)(1) of section 1903

1 *of the Social Security Act (42 U.S.C. 1396b) that*
2 *would otherwise be required under subsection (w)*
3 *of such section for calendar quarters in fiscal*
4 *year 2009 because of the amendment made by*
5 *section (a) shall be reduced by one-half.*

6 **SEC. 3143. MEDICAID TRANSFORMATION GRANTS.**

7 *(a) IN GENERAL.—Section 1903 of the Social Security*
8 *Act (42 U.S.C. 1396b), as amended by section 3123, is*
9 *amended by adding at the end the following new subsection:*

10 *“(y) MEDICAID TRANSFORMATION PAYMENTS.—*

11 *“(1) IN GENERAL.—In addition to the payments*
12 *provided under subsection (a), subject to paragraph*
13 *(4), the Secretary shall provide for payments to*
14 *States for the adoption of innovative methods to im-*
15 *prove the effectiveness and efficiency in providing*
16 *medical assistance under this title.*

17 *“(2) PERMISSIBLE USES OF FUNDS.—The fol-*
18 *lowing are examples of innovative methods for which*
19 *funds provided under this subsection may be used:*

20 *“(A) Methods for reducing patient error*
21 *rates through the implementation and use of elec-*
22 *tronic health records, electronic clinical decision*
23 *support tools, or e-prescribing programs.*

1 “(B) *Methods for improving rates of collec-*
2 *tion from estates of amounts owed under this*
3 *title.*

4 “(C) *Methods for reducing waste, fraud, and*
5 *abuse under the program under this title, such as*
6 *reducing improper payment rates as measured*
7 *by annual payment error rate measurement*
8 *(PERM) project rates.*

9 “(D) *Implementation of a medication risk*
10 *management program as part of a drug use re-*
11 *view program under section 1927(g).*

12 “(E) *Methods in reducing, in clinically ap-*
13 *propriate ways, expenditures under this title for*
14 *covered outpatient drugs, particularly in the cat-*
15 *egories of greatest drug utilization, by increasing*
16 *the utilization of generic drugs through the use*
17 *of education programs and other incentives to*
18 *promote greater use of generic drugs.*

19 “(3) *APPLICATION; TERMS AND CONDITIONS.—*

20 “(A) *IN GENERAL.—No payments shall be*
21 *made to a State under this subsection unless the*
22 *State applies to the Secretary for such payments*
23 *in a form, manner, and time specified by the*
24 *Secretary.*

1 “(B) *TERMS AND CONDITIONS.*—*Such pay-*
 2 *ments are made under such terms and conditions*
 3 *consistent with this subsection as the Secretary*
 4 *prescribes.*

5 “(C) *ANNUAL REPORT.*—*Payment to a*
 6 *State under this subsection is conditioned on the*
 7 *State submitting to the Secretary an annual re-*
 8 *port on the programs supported by such pay-*
 9 *ment. Such report shall include information*
 10 *on—*

11 “(A) *the specific uses of such payment;*

12 “(B) *an assessment of quality improvements*
 13 *and clinical outcomes under such programs; and*

14 “(C) *estimates of cost savings resulting from*
 15 *such programs.*

16 “(4) *FUNDING.*—

17 “(A) *LIMITATION ON FUNDS.*—*The total*
 18 *amount of payments under this subsection shall*
 19 *be equal to, and shall not exceed—*

20 “(i) *\$50,000,000 for fiscal year 2007;*

21 *and*

22 “(ii) *\$50,000,000 for fiscal year 2008.*

23 *This subsection constitutes budget authority in*
 24 *advance of appropriations Acts and represents*
 25 *the obligation of the Secretary to provide for the*

1 *payment of amounts provided under this sub-*
2 *section.*

3 “(B) *ALLOCATION OF FUNDS.*—*The Sec-*
4 *retary shall specify a method for allocating the*
5 *funds made available under this subsection*
6 *among States. Such method shall provide pref-*
7 *erence for States that design programs that tar-*
8 *get health providers that treat significant num-*
9 *bers of medicaid beneficiaries. Such method shall*
10 *provide that not less than 25 percent of such*
11 *funds shall be allocated among States the popu-*
12 *lation of which (as determined according to data*
13 *collected by the United States Census Bureau) as*
14 *of July 1, 2004, was more than 105 percent of*
15 *the population of the respective State (as so de-*
16 *termined) as of April 1, 2000.*

17 “(C) *FORM AND MANNER OF PAYMENT.*—
18 *Payment to a State under this subsection shall*
19 *be made in the same manner as other payments*
20 *under section 1903(a). There is no requirement*
21 *for State matching funds to receive payments*
22 *under this subsection.*

23 “(5) *MEDICATION RISK MANAGEMENT PRO-*
24 *GRAM.*—

1 “(A) *IN GENERAL.*—For purposes of this
2 subsection, the term ‘medication risk manage-
3 ment program’ means a program for targeted
4 beneficiaries that ensures that covered outpatient
5 drugs are appropriately used to optimize thera-
6 peutic outcomes through improved medication
7 use and to reduce the risk of adverse events.

8 “(B) *ELEMENTS.*—Such program may in-
9 clude the following elements:

10 “(i) *The use of established principles*
11 *and standards for drug utilization review*
12 *and best practices to analyze prescription*
13 *drug claims of targeted beneficiaries and*
14 *identify outlier physicians.*

15 “(ii) *On an ongoing basis provide*
16 *outlier physicians—*

17 “(I) *a comprehensive pharmacy*
18 *claims history for each targeted bene-*
19 *ficiary under their care;*

20 “(II) *information regarding the*
21 *frequency and cost of relapses and hos-*
22 *pitalizations of targeted beneficiaries*
23 *under the physician’s care; and*

24 “(III) *applicable best practice*
25 *guidelines and empirical references.*

1 “(iii) Monitor outlier physician’s pre-
 2 scribing, such as failure to refill, dosage
 3 strengths, and provide incentives and infor-
 4 mation to encourage the adoption of best
 5 clinical practices.

6 “(C) TARGETED BENEFICIARIES.—For pur-
 7 poses of this paragraph, the term ‘targeted bene-
 8 ficiaries’ means medicaid eligible beneficiaries
 9 who are identified as having high prescription
 10 drug costs and medical costs, such as individuals
 11 with behavioral disorders or multiple chronic
 12 diseases who are taking multiple medications.”.

13 **SEC. 3144. ENHANCING THIRD PARTY IDENTIFICATION AND**
 14 **PAYMENT.**

15 (a) CLARIFICATION OF THIRD PARTIES LEGALLY RE-
 16 SPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH
 17 CARE ITEM OR SERVICE.—Section 1902(a)(25) of the So-
 18 cial Security Act (42 U.S.C. 1396a(a)(25)) is amended—

19 (1) in subparagraph (A), in the matter preceding
 20 clause (i)—

21 (A) by inserting “, including self-insured
 22 plans” after “health insurers”; and

23 (B) by striking “and health maintenance
 24 organizations” and inserting “health mainte-
 25 nance organizations, pharmacy benefit man-

1 agers, or other parties that are, by statute, con-
 2 tract, or agreement, legally responsible for pay-
 3 ment of a claim for a health care item or serv-
 4 ice”; and

5 (2) in subparagraph (G)—

6 (A) by inserting “a self-insured plan,” after
 7 “1974,”; and

8 (B) by striking “and a health maintenance
 9 organization” and inserting “a health mainte-
 10 nance organization, a pharmacy benefit man-
 11 ager, or other party that is, by statute, contract,
 12 or agreement, legally responsible for payment of
 13 a claim for a health care item or service”.

14 (b) *REQUIREMENT FOR THIRD PARTIES TO PROVIDE*
 15 *THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS*
 16 *DATA.*—Section 1902(a)(25) of such Act (42 U.S.C.
 17 1396a(a)(25)) is amended—

18 (1) in subparagraph (G), by striking “and” at
 19 the end;

20 (2) in subparagraph (H), by adding “and” after
 21 the semicolon at the end; and

22 (3) by inserting after subparagraph (H), the fol-
 23 lowing:

24 “(I) that the State shall provide assurances
 25 satisfactory to the Secretary that the State has

1 *in effect laws requiring health insurers, includ-*
2 *ing self-insured plans, group health plans (as de-*
3 *defined in section 607(1) of the Employee Retire-*
4 *ment Income Security Act of 1974), service ben-*
5 *efit plans, health maintenance organizations,*
6 *pharmacy benefit managers, or other parties that*
7 *are, by statute, contract, or agreement, legally re-*
8 *sponsible for payment of a claim for a health*
9 *care item or service, as a condition of doing*
10 *business in the State, to—*

11 “(i) *provide eligibility and claims pay-*
12 *ment data with respect to an individual*
13 *who is eligible for, or is provided, medical*
14 *assistance under the State plan, upon the*
15 *request of the State;*

16 “(ii) *accept the subrogation of the*
17 *State to any right of an individual or other*
18 *entity to payment from the party for an*
19 *item or service for which payment has been*
20 *made under the State plan;*

21 “(iii) *respond to any inquiry by the*
22 *State regarding a claim for payment for*
23 *any health care item or service submitted*
24 *not later than 3 years after the date of the*

1 *provision of such health care item or serv-*
2 *ice; and*

3 *“(iv) agree not to deny a claim sub-*
4 *mitted by the State solely on the basis of the*
5 *date of submission of the claim;”.*

6 *(c) EFFECTIVE DATE.—*

7 *(1) IN GENERAL.—Except as provided in para-*
8 *graph (2), the amendments made by this section take*
9 *effect on January 1, 2006.*

10 *(2) DELAYED EFFECTIVE DATE.—In the case of*
11 *a State plan under title XIX of the Social Security*
12 *Act which the Secretary determines requires State leg-*
13 *islation in order for the plan to meet the additional*
14 *requirements imposed by the amendments made by*
15 *this section, the State plan shall not be regarded as*
16 *failing to comply with the requirements of such Act*
17 *solely on the basis of its failure to meet these addi-*
18 *tional requirements before the first day of the first*
19 *calendar quarter beginning after the close of the first*
20 *regular session of the State legislature that begins*
21 *after the date of enactment of this Act. For purposes*
22 *of the previous sentence, in the case of a State that*
23 *has a 2-year legislative session, each year of the ses-*
24 *sion shall be considered to be a separate regular ses-*
25 *sion of the State legislature.*

1 **SEC. 3145. IMPROVED ENFORCEMENT OF DOCUMENTATION**
2 **REQUIREMENTS.**

3 (a) *IN GENERAL.*—Section 1903 of the Social Security
4 Act (42 U.S.C. 1396b) is amended—

5 (1) in subsection (i), as amended by section 104
6 of Public Law 109–91—

7 (A) by striking the period at the end of
8 paragraph (21) and inserting “; or”; and

9 (B) by inserting after paragraph (21) the
10 following new paragraph:

11 “(22) with respect to amounts expended for med-
12 ical assistance for an individual who declares under
13 section 1137(d)(1)(A) to be a citizen or national of
14 the United States for purposes of establishing eligi-
15 bility for benefits under this title, unless the require-
16 ment of subsection (z) is met.”; and

17 (2) by adding at the end, as amended by sections
18 3123 and 3143, the following new subsection:

19 “(z)(1) For purposes of subsection (i)(22), the require-
20 ment of this subsection is, with respect to an individual
21 declaring to be a citizen or national of the United States,
22 that, subject to paragraph (2), there is presented satisfac-
23 tory documentary evidence of citizenship or nationality (as
24 defined in paragraph (3)) of the individual.

1 “(2) *The requirement of paragraph (1) shall not apply*
2 *to an alien who is eligible for medical assistance under this*
3 *title—*

4 “(A) *and is entitled to or enrolled for benefits*
5 *under any part of title XVIII;*

6 “(B) *on the basis of receiving supplemental secu-*
7 *rity income benefits under title XVI; or*

8 “(C) *on such other basis as the Secretary may*
9 *specify under which satisfactory documentary evi-*
10 *dence of citizenship or nationality had been pre-*
11 *viously presented.*

12 “(3)(A) *For purposes of this subsection, the term ‘satis-*
13 *factory documentary evidence of citizenship or nationality’*
14 *means—*

15 “(i) *any document described in subparagraph*
16 *(B); or*

17 “(ii) *a document described in subparagraph (C)*
18 *and a document described in subparagraph (D).*

19 “(B) *The following are documents described in this*
20 *subparagraph:*

21 “(i) *A United State passport.*

22 “(ii) *Form N-550 or N-570 (Certificate of Natu-*
23 *ralization).*

24 “(iii) *Form N-560 or N-561 (Certificate of*
25 *United States Citizenship).*

1 “(iv) Such other document as the Secretary may
2 specify, by regulation, that provides proof of United
3 States citizenship or nationality and that provides a
4 reliable means of documentation of personal identity.

5 “(C) The following are documents described in this
6 subparagraph:

7 “(i) A certificate of birth in the United States.

8 “(ii) Form FS-545 or Form DS-1350 (Certifi-
9 cation of Birth Abroad).

10 “(iii) Form I-97 (United States Citizen Identi-
11 fication Card).

12 “(iv) Form FS-240 (Report of Birth Abroad of
13 a Citizen of the United States).

14 “(v) Such other document (not described in sub-
15 paragraph (B)(iv)) as the Secretary may specify that
16 provides proof of United States citizenship or nation-
17 ality.

18 “(D) The following are documents described in this
19 subparagraph:

20 “(i) Any identity document described in section
21 274A(b)(1)(D) of the Immigration and Nationality
22 Act.

23 “(ii) Any other documentation of personal iden-
24 tity of such other type as the Secretary finds, by regu-
25 lation, provides a reliable means of identification.

1 “(E) A reference in this paragraph to a form includes
2 a reference to any successor form.”.

3 (b) *EFFECTIVE DATE.*—The amendments made by sub-
4 section (a) shall apply to determinations of initial eligi-
5 bility for medical assistance made on or after July 1, 2006,
6 and to redeterminations of eligibility made on or after such
7 date in the case of individuals for whom the requirement
8 of section 1903(z) of the Social Security Act, as added by
9 such amendments, was not previously met.

10 **SEC. 3146. REFORMS OF TARGETED CASE MANAGEMENT.**

11 (a) *IN GENERAL.*—Section 1915(g) of the Social Secu-
12 rity Act (42 U.S.C. 1396n(g)) is amended by striking para-
13 graph (2) and inserting the following:

14 “(2) For purposes of this subsection:

15 “(A)(i) The term ‘case management services’
16 means services which will assist individuals eligible
17 under the plan in gaining access to needed medical,
18 social, educational, and other services.

19 “(ii) Such term includes the following:

20 “(I) Assessment of an eligible individual to
21 determine service needs, including activities that
22 focus on needs identification, to determine the
23 need for any medical, educational, social, or
24 other services. Such assessment activities include
25 the following:

1 “(aa) Taking client history.

2 “(bb) Identifying the needs of the indi-
3 vidual, and completing related documenta-
4 tion.

5 “(cc) Gathering information from other
6 sources such as family members, medical
7 providers, social workers, and educators, if
8 necessary, to form a complete assessment of
9 the eligible individual.

10 “(II) Development of a specific care plan
11 based on the information collected through an as-
12 sessment, that specifies the goals and actions to
13 address the medical, social, educational, and
14 other services needed by the eligible individual,
15 including activities such as ensuring the active
16 participation of the eligible individual and
17 working with the individual (or the individual’s
18 authorized health care decision maker) and oth-
19 ers to develop such goals and identify a course
20 of action to respond to the assessed needs of the
21 eligible individual.

22 “(III) Referral and related activities to help
23 an individual obtain needed services, including
24 activities that help link eligible individuals with
25 medical, social, educational providers or other

1 *programs and services that are capable of pro-*
2 *viding needed services, such as making referrals*
3 *to providers for needed services and scheduling*
4 *appointments for the individual.*

5 *“(IV) Monitoring and follow-up activities,*
6 *including activities and contacts that are nec-*
7 *essary to ensure the care plan is effectively im-*
8 *plemented and adequately addressing the needs*
9 *of the eligible individual, and which may be*
10 *with the individual, family members, providers,*
11 *or other entities and conducted as frequently as*
12 *necessary to help determine such matters as—*

13 *“(aa) whether services are being fur-*
14 *nished in accordance with an individual’s*
15 *care plan;*

16 *“(bb) whether the services in the care*
17 *plan are adequate; and*

18 *“(cc) whether there are changes in the*
19 *needs or status of the eligible individual,*
20 *and if so, making necessary adjustments in*
21 *the care plan and service arrangements*
22 *with providers.*

23 *“(iii) Such term does not include the direct de-*
24 *livery of an underlying medical, educational, social,*
25 *or other service to which an eligible individual has*

1 *been referred, including, with respect to the direct de-*
2 *livery of foster care services, services such as (but not*
3 *limited to) the following:*

4 *“(I) Research gathering and completion of*
5 *documentation required by the foster care pro-*
6 *gram.*

7 *“(II) Assessing adoption placements.*

8 *“(III) Recruiting or interviewing potential*
9 *foster care parents.*

10 *“(IV) Serving legal papers.*

11 *“(V) Home investigations.*

12 *“(VI) Providing transportation.*

13 *“(VII) Administering foster care subsidies.*

14 *“(VIII) Making placement arrangements.*

15 *“(B) The term ‘targeted case management serv-*
16 *ices’ means case management services that are fur-*
17 *nished without regard to the requirements of section*
18 *1902(a)(1) and section 1902(a)(10)(B) to specific*
19 *classes of individuals or to individuals who reside in*
20 *specified areas.*

21 *“(3) With respect to contacts with individuals who are*
22 *not eligible for medical assistance under the State plan or,*
23 *in the case of targeted case management services, individ-*
24 *uals who are eligible for such assistance but are not part*

1 of the target population specified in the State plan, such
2 contacts—

3 “(A) are considered an allowable case manage-
4 ment activity, when the purpose of the contact is di-
5 rectly related to the management of the eligible indi-
6 vidual’s care; and

7 “(B) are not considered an allowable case man-
8 agement activity if such contacts relate directly to the
9 identification and management of the noneligible or
10 nontargeted individual’s needs and care.

11 “(4)(A) In accordance with section 1902(a)(25), Fed-
12 eral financial participation only is available under this
13 title for case management services or targeted case manage-
14 ment services if there are no other third parties liable to
15 pay for such services, including as reimbursement under a
16 medical, social, educational, or other program.

17 “(B) A State shall allocate the costs of any part of
18 such services which are reimbursable under another feder-
19 ally funded program in accordance with OMB Circular A-
20 87 (or any related or successor guidance or regulations re-
21 garding allocation of costs among federally funded pro-
22 grams) under an approved cost allocation program.”.

23 (b) *EFFECTIVE DATE.*—The amendment made by sub-
24 section (a) shall take effect on January 1, 2006.

1 **SEC. 3147. EMERGENCY SERVICES FURNISHED BY NON-CON-**
 2 **TRACT PROVIDERS FOR MEDICAID MANAGED**
 3 **CARE ENROLLEES.**

4 (a) *IN GENERAL.*—Section 1932(b)(2) of the Social Se-
 5 curity Act (42 U.S.C. 1396u–2(b)(2)) is amended by adding
 6 at the end the following new subparagraph:

7 “(D) *EMERGENCY SERVICES FURNISHED BY*
 8 *NON-CONTRACT PROVIDERS.*—Any provider of
 9 emergency services that does not have in effect a
 10 contract with a medicaid managed care entity
 11 that establishes payment amounts for services
 12 furnished to a beneficiary enrolled in the entity’s
 13 medicaid managed care plan must accept as
 14 payment in full the amounts (less any payments
 15 for indirect costs of medical education and direct
 16 costs of graduate medical education) that it
 17 could collect if the beneficiary received medical
 18 assistance under this title other than through en-
 19 rollment in such an entity.”.

20 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 21 section (a) shall take effect on January 1, 2007.

22 **SEC. 3148. ADJUSTMENT IN COMPUTATION OF MEDICAID**
 23 **FMAP TO DISREGARD AN EXTRAORDINARY**
 24 **EMPLOYER PENSION CONTRIBUTION.**

25 (a) *IN GENERAL.*—Only for purposes of computing the
 26 Federal medical assistance percentage under section

1 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) for
 2 a State for a fiscal year (beginning with fiscal year 2006),
 3 any significantly disproportionate employer pension con-
 4 tribution described in subsection (b) shall be disregarded in
 5 computing the per capita income of such State, but shall
 6 not be disregarded in computing the per capita income for
 7 the continental United States (and Alaska) and Hawaii.

8 (b) **SIGNIFICANTLY DISPROPORTIONATE EMPLOYER**
 9 **PENSION CONTRIBUTION.**—For purposes of subsection (a),
 10 a significantly disproportionate employer pension contribu-
 11 tion described in this subsection with respect to a State for
 12 a fiscal year is an employer contribution towards pensions
 13 that is allocated to such State for a period if the aggregate
 14 amount so allocated exceeds 50 percent of the total increase
 15 in personal income in that State for the period involved.

16 **Subtitle B—Katrina Health Care**
 17 **Relief**

18 **SEC. 3201. TARGETED MEDICAID RELIEF FOR STATES AF-**
 19 **FECTED BY HURRICANE KATRINA.**

20 (a) **100 PERCENT FEDERAL MATCHING PAYMENTS**
 21 **FOR MEDICAL ASSISTANCE PROVIDED IN KATRINA IM-**
 22 **PACTED AREAS.**—

23 (1) **IN GENERAL.**—Notwithstanding section
 24 1905(b) of the Social Security Act (42 U.S.C.
 25 1396d(b)), for items and services furnished during the

1 *period that begins on August 28, 2005, and ends on*
2 *May 15, 2006, the Federal matching rate for pro-*
3 *viding medical assistance for such items and services*
4 *under a State Medicaid plan to any individual resid-*
5 *ing in a Katrina impacted parish or county (as de-*
6 *fined in subsection (c)(1)) or to a Katrina Survivor*
7 *(as defined in subsection (b)), and for costs directly*
8 *attributable to all administrative activities that relate*
9 *to the provision of such medical assistance, shall be*
10 *100 percent.*

11 (2) *APPLICATION TO CHILD HEALTH ASSIST-*
12 *ANCE.—Notwithstanding section 2105(b) of the Social*
13 *Security Act (42 U.S.C. 1397ee(b)), for items and*
14 *services furnished during the period described in*
15 *paragraph (1), the Federal matching rate for pro-*
16 *viding child health assistance for such items and serv-*
17 *ices under a State child health plan under title XXI*
18 *of such Act in a Katrina impacted parish or county*
19 *or to a Katrina Survivor, and for costs directly at-*
20 *tributable to all administrative activities that relate*
21 *to the provision of such child health assistance, shall*
22 *be 100 percent.*

23 (b) *KATRINA SURVIVOR.—For purposes of subsection*
24 *(a), the term “Katrina Survivor” means an individual*
25 *who, on any day during the week preceding August 28,*

1 2005, had a primary residence in a major disaster parish
2 or county (as defined in subsection (c)).

3 (c) *DEFINITIONS.*—For purposes of this section:

4 (1) *KATRINA IMPACTED PARISH OR COUNTY.*—
5 The term “Katrina impacted parish or county”
6 means any parish in the State of Louisiana, any
7 county in the State of Mississippi, and any major
8 disaster parish or county in the State of Alabama.

9 (2) *MAJOR DISASTER PARISH OR COUNTY.*—A
10 major disaster parish or county is a parish of the
11 State of Louisiana or a county of the State of Mis-
12 sissippi or Alabama for which a major disaster has
13 been declared in accordance with section 401 of the
14 Robert T. Stafford Disaster Relief and Emergency As-
15 sistance Act (42 U.S.C. 5170) as a result of Hurri-
16 cane Katrina and which the President has deter-
17 mined, as of September 14, 2005, warrants individual
18 assistance from the Federal Government under such
19 Act.

20 **SEC. 3202. STATE HIGH RISK HEALTH INSURANCE POOL**
21 **FUNDING.**

22 There are hereby authorized and appropriated
23 \$90,000,000 for fiscal year 2006 for grants under subsection
24 (b)(1) of section 2745 of the Public Health Service Act (42
25 U.S.C. 300gg-45). The amount so appropriated shall be

1 *treated as if it had been appropriated under subsection*
 2 *(c)(2) of such section.*

3 **SEC. 3203. RECOMPUTATION OF HPSA, MUA, AND MUP DES-**
 4 **IGNATIONS WITHIN HURRICANE KATRINA AF-**
 5 **FFECTED AREAS.**

6 *(a) IN GENERAL.—For purposes of the Public Health*
 7 *Service Act (42 U.S.C. 201 et seq.), the Secretary of Health*
 8 *and Human Services shall conduct a review of all Hurri-*
 9 *cane Katrina disaster areas and, as appropriate taking*
 10 *into account the lack of availability of health care providers*
 11 *and services due to Hurricane Katrina—*

12 *(1) shall designate such areas as health profes-*
 13 *sional shortage areas or medically underserved areas;*
 14 *and*

15 *(2) shall designate one of more populations of*
 16 *each such area as a medically underserved popu-*
 17 *lation.*

18 *(b) HURRICANE KATRINA DISASTER AREA DE-*
 19 *FINED.—For purposes of this section, the term “Hurricane*
 20 *Katrina disaster area” means an area for which a major*
 21 *disaster has been declared in accordance with section 401*
 22 *of the Robert T. Stafford Disaster Relief and Emergency*
 23 *Assistance Act (42 U.S.C. 5170) as a result of Hurricane*
 24 *Katrina and which the President has determined, before*

1 *September 14, 2005, warrants individual and public assist-*
2 *ance from the Federal Government under such Act.*

3 **SEC. 3204. WAIVER OF CERTAIN REQUIREMENTS APPLICA-**
4 **BLE TO THE PROVISION OF HEALTH CARE IN**
5 **AREAS IMPACTED BY HURRICANE KATRINA.**

6 (a) *ELIGIBLE AREA.*—

7 (1) *DEFINITION.*—*In this section, the term “eli-*
8 *gible area” means an area identified by the Secretary*
9 *of Health and Human Services pursuant to para-*
10 *graph (2).*

11 (2) *IDENTIFICATION.*—*Not later than 30 days*
12 *after the date of the enactment of this Act, the Sec-*
13 *retary of Health and Human Services shall identify*
14 *areas that—*

15 (A) *have been directly impacted by Hurri-*
16 *cane Katrina; or*

17 (B) *are located in a State which has ab-*
18 *sorbed a significant number of Hurricane*
19 *Katrina evacuees.*

20 (b) *HEALTH CENTERS.*—*For the purpose of deter-*
21 *mining whether an entity located in an eligible area quali-*
22 *fies as a health center under section 330 of the Public*
23 *Health Service Act (42 U.S.C. 254b):*

24 (1) *BOARD COMPOSITION.*—

1 (A) *WAIVER.*—*The Secretary of Health and*
2 *Human Services shall waive any requirement*
3 *that a majority of the governing board of the en-*
4 *entity be consumers of the entity's health care serv-*
5 *ices.*

6 (B) *RULE OF CONSTRUCTION.*—*This para-*
7 *graph shall not be construed as requiring the*
8 *Secretary of Health and Human Services to*
9 *waive a requirement that the governing board of*
10 *the entity include representation of the con-*
11 *sumers of the entity's health care services.*

12 (2) *MEDICALLY UNDERSERVED POPULATION.*—

13 (A) *DETERMINATION.*—*At the request of the*
14 *entity, the Secretary of Health and Human*
15 *Services shall determine whether, taking into*
16 *consideration any change in population associ-*
17 *ated with Hurricane Katrina, the entity serves a*
18 *medically underserved population (as that term*
19 *is defined in section 330(b)(3) of the Public*
20 *Health Service Act (42 U.S.C. 254b(b)(3))).*

21 (B) *DEADLINE.*—*The Secretary of Health*
22 *and Human Services shall make a determination*
23 *under subparagraph (A) not later than 60 days*
24 *after the date on which the Secretary receives the*
25 *request for the determination.*

1 (C) *RESTRICTION.*—*The Secretary of Health*
2 *and Human Services shall not make any deter-*
3 *mination under this paragraph on whether a*
4 *population has ceased to qualify as a medically*
5 *underserved population under section 330 of the*
6 *Public Health Service Act (42 U.S.C. 254b).*

7 (3) *REQUIRED PRIMARY HEALTH SERVICES.*—
8 *The Secretary of Health and Human Services shall*
9 *waive any requirement for the entity to provide pri-*
10 *mary health services described in clause (iii), (iv), or*
11 *(v) of section 330(b)(1) of the Public Health Service*
12 *Act (42 U.S.C. 254b(b)(1)).*

13 (c) *NATIONAL HEALTH SERVICE CORPS.*—*Notwith-*
14 *standing the provisions of subpart II of part D of title III*
15 *of the Public Health Service Act (42 U.S.C. 254d et seq.)*
16 *requiring that members of the National Health Service*
17 *Corps be assigned to health professional shortage areas, the*
18 *Secretary of Health and Human Services may assign mem-*
19 *bers of the National Health Service Corps to any eligible*
20 *area.*

21 (d) *TERMINATION OF AUTHORITY.*—*The authority*
22 *vested by this section in the Secretary of Health and*
23 *Human Services and the Secretary of Homeland Security*
24 *shall terminate on the date that is 2 years after enactment*
25 *of this Act. The Secretary of Health and Human Services*

1 *may not grant any waiver under subsection (b)(1) or (b)(3)*
 2 *and may not make any assignment of personnel under sub-*
 3 *section (c), and the Secretary of Homeland Security may*
 4 *not allow any agreement under subsection (d), for a period*
 5 *extending beyond such date.*

6 **SEC. 3205. FMAP HOLD HARMLESS FOR KATRINA IMPACT.**

7 *Notwithstanding any other provision of law, for pur-*
 8 *poses of titles XIX and XXI of the Social Security Act, the*
 9 *Secretary of Health and Human Services in computing the*
 10 *Federal medical assistance percentage under section*
 11 *1905(b) of such (42 U.S.C. 1396d(b)) for any year after*
 12 *2006 for a State that the Secretary determines has a signifi-*
 13 *cant number of evacuees who were evacuated to, and live*
 14 *in, the State as a result of Hurricane Katrina as of October*
 15 *1, 2005, the Secretary shall disregard such evacuees (and*
 16 *income attributable to such evacuees).*

17 ***Subtitle C—Katrina and Rita***
 18 ***Energy Relief***

19 **SEC. 3301. HURRICANES KATRINA AND RITA ENERGY RE-**
 20 ***LIEF.***

21 *(a) FINDINGS.—The Congress finds the following:*

22 *(1) Hurricanes Katrina and Rita severely dis-*
 23 *rupted crude oil and natural gas production in the*
 24 *Gulf of Mexico. The Energy Information Administra-*
 25 *tion estimates that as a result of these two hurricanes,*

1 *the amount of shut in crude oil production nearly*
2 *doubled to almost 1,600,000 barrels per day, and the*
3 *amount of natural gas production shut in also dou-*
4 *bled to about 8,000,000,000 cubic feet per day. The*
5 *hurricanes also initially shut down most of the crude*
6 *oil refinery capacity in the Gulf of Mexico region.*
7 *These disruptions led to significantly higher prices for*
8 *crude oil, refined oil products, and natural gas.*

9 *(2) These production and supply disruptions are*
10 *expected to lead to significantly higher heating costs*
11 *for consumers this winter. The Energy Information*
12 *Administration projects an increase in residential*
13 *natural gas heating expenditures of 32 percent to 61*
14 *percent over last winter, with the Midwest seeing the*
15 *largest increase. Winter heating oil expenditures are*
16 *projected to increase by 30 percent to 41 percent over*
17 *last winter, again with the Midwest seeing the largest*
18 *increase. Propane expenditures for home heating are*
19 *projected to increase 20 percent to 36 percent over last*
20 *winter, with the Midwest seeing the largest projected*
21 *increase. Expenditures for home heating using elec-*
22 *tricity are expected to increase by 2 percent to 9 per-*
23 *cent over last winter, with the South seeing the largest*
24 *increase. Overall, average home heating expenditures*
25 *this winter are projected to increase about 33 percent,*

1 *assuming a normal winter. These significant in-*
2 *creases in home heating costs this winter will particu-*
3 *larly harm low-income consumers. The Low-Income*
4 *Home Energy Assistance Program is designed to as-*
5 *assist these low income consumers in this situation. Ac-*
6 *cordingly, Congress seeks a one-time only supplement*
7 *to the Low-Income Home Energy Assistance Program*
8 *fund to assist low income consumers with the addi-*
9 *tional home heating expenditures that they will face*
10 *this winter as a result of Hurricanes Katrina and*
11 *Rita.*

12 (b) *RELIEF.*—*In addition to amounts otherwise made*
13 *available, there shall be directly available to the Secretary*
14 *of Health and Human Services for a 1-time only obligation*
15 *and expenditure \$1,000,000,000 for fiscal year 2006 for al-*
16 *location under section 2604(a) through (d) of the Low-In-*
17 *come Home Energy Assistance Act of 1981 (42 U.S.C.*
18 *8623(a) through (d)), for the sole purpose of providing as-*
19 *sistance to offset the anticipated higher energy costs caused*
20 *by Hurricane Katrina and Hurricane Rita.*

21 (c) *SUNSET.*—*The provisions of this section shall ter-*
22 *minate, be null and void, and have no force and effect what-*
23 *soever after September 30, 2006. No monies provided for*
24 *under this section shall be available after such date.*

1 ***Subtitle D—Digital Television***
2 ***Transition***

3 **SEC. 3401. SHORT TITLE.**

4 *This subtitle may be cited as the “Digital Television*
5 *Transition Act of 2005”.*

6 **SEC. 3402. FINDINGS.**

7 *The Congress finds the following:*

8 (1) *A loophole in current law is stalling the dig-*
9 *ital television (DTV) transition and preventing the*
10 *return of spectrum for critical public safety and wire-*
11 *less broadband uses.*

12 (A) *In 1996, to facilitate the DTV transi-*
13 *tion, Congress gave each full-power television*
14 *broadcaster an extra channel of spectrum to*
15 *broadcast in digital format while continuing to*
16 *broadcast in analog format on its original chan-*
17 *nel. Each broadcaster was supposed to eventually*
18 *return either the original or additional channel*
19 *and broadcast exclusively in digital format on*
20 *the remaining channel.*

21 (B) *In 1997, Congress earmarked for public*
22 *safety use some of the spectrum the broadcasters*
23 *are supposed to return. Congress designated the*
24 *rest of the spectrum to be auctioned for advanced*
25 *commercial applications, such as wireless*

1 *broadband services. Congress set December 31,*
2 *2006, as the deadline for broadcasters to return*
3 *the spectrum for public safety and wireless use.*

4 *(C) A loophole, however, allows broadcasters*
5 *in a market to delay the return of the spectrum*
6 *until more than 85 percent of television house-*
7 *holds in that market have at least one television*
8 *with access to digital broadcast channels using a*
9 *digital television receiver, a digital-to-analog*
10 *converter box, or cable or satellite service. Ex-*
11 *perts forecast it will take many more years to*
12 *meet the 85-percent test nationwide.*

13 *(2) Eliminating the 85-percent test and setting*
14 *a “hard deadline” will close the loophole, making pos-*
15 *sible the nationwide clearing necessary to complete*
16 *the DTV transition and free the spectrum for public*
17 *safety use.*

18 *(A) Some police officers, firefighters, and*
19 *rescue personnel already have equipment to com-*
20 *municate over the spectrum the broadcasters are*
21 *supposed to return, and are just awaiting the*
22 *turnover. Many more public safety officials can-*
23 *not purchase equipment or begin planning with-*
24 *out a date certain for the availability of the spec-*
25 *trum.*

1 (B) Five years to the day before September
2 11, 2001, an advisory committee report to the
3 Federal Communications Commission (FCC)
4 noted that public safety officials desperately
5 needed more spectrum to better communicate
6 with each other in times of emergency. The 9/11
7 Commission has specifically recognized the im-
8 portance of clearing for public safety use the
9 spectrum at issue here, especially following the
10 terrorist attacks on the Pentagon and the World
11 Trade Center. The spectrum is also important
12 for communications during natural disasters.

13 (3) The certainty of a nationwide hard deadline
14 will enable consumers, industry, and government to
15 take the necessary steps to make the transition as
16 smooth as possible.

17 (A) Under existing law, once a market
18 meets the 85-percent penetration test, the re-
19 maining 15 percent of households in the market
20 would lose access to broadcast programming un-
21 less they obtain a digital television receiver, a
22 digital-to-analog converter box, or cable or sat-
23 ellite service.

24 (B) Determining when the 85-percent test
25 in current law has been met in a particular

1 *market would be extremely difficult for the FCC*
2 *to accomplish. Moreover, because no one can pre-*
3 *dict precisely when any market will meet the 85-*
4 *percent test, and because different markets will*
5 *meet the test at different times, consumers, in-*
6 *dustry, and government cannot adequately plan*
7 *on a either a local or nationwide basis.*

8 *(C) With a hard deadline, government, in-*
9 *dustry, and consumer groups can develop con-*
10 *crete plans for consumer education. Manufactur-*
11 *ers can build large quantities of low-cost digital-*
12 *to-analog converter boxes for consumers who wish*
13 *to continue using their analog televisions. Clear-*
14 *ing the spectrum on a unified, nationwide basis*
15 *will also enable the government to maximize the*
16 *revenue from the auction. Some of that revenue*
17 *can be used to help make the converter boxes*
18 *available.*

19 *(D) The deadline will have little impact on*
20 *most television households. The vast majority of*
21 *households already subscribe to cable or satellite*
22 *services. Allowing cable and satellite operators to*
23 *convert digital broadcasts into an analog-*
24 *viewable format will enable their subscribers that*

1 *wish to continue using analog televisions to do*
2 *so.*

3 *(4) Setting a hard deadline will bring consumers*
4 *and the economy the benefits of the DTV transition*
5 *faster.*

6 *(A) DTV offers sharper and wider pictures,*
7 *and CD-quality sound. Even consumers with*
8 *analog televisions connected to a converter box or*
9 *cable or satellite service will receive better service*
10 *than they did before the transition.*

11 *(B) Once the transition is complete, broad-*
12 *casters can redirect the resources they currently*
13 *expend running both analog and digital stations*
14 *and focus on programming that capitalizes on*
15 *the advanced features of digital transmissions.*
16 *Manufacturers can also increase the production*
17 *of televisions and other consumer electronics*
18 *equipment that takes advantage of these features,*
19 *which will also drive down prices.*

20 *(C) The cleared spectrum can be used to*
21 *bring cutting-edge wireless services to public*
22 *safety officials and consumers. This spectrum*
23 *travels greater distances at lower costs, and more*
24 *easily penetrates buildings and foliage. Con-*
25 *sequently, it is ideal to bring mobile broadband*

1 *services not only to urban areas, but to rural*
 2 *areas as well, which currently have very few*
 3 *cost-effective broadband options.*

4 *(D) The increase in DTV programming,*
 5 *services, and equipment, and the provision of*
 6 *products and services that use the cleared spec-*
 7 *trum, will improve America’s global competitive-*
 8 *ness and result in significant investment and in-*
 9 *novation, boosting our economy and fostering*
 10 *new jobs.*

11 **SEC. 3403. ANALOG SPECTRUM RECOVERY: HARD DEAD-**
 12 **LINE.**

13 *(a) AMENDMENTS.—Section 309(j)(14) of the Commu-*
 14 *nications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—*

15 *(1) in subparagraph (A), by striking “December*
 16 *31, 2006” and inserting “December 31, 2008”;*

17 *(2) by striking subparagraph (B);*

18 *(3) in subparagraph (C)(i)(I), by striking “or*
 19 *(B)”;*

20 *(4) in subparagraph (D), by striking “subpara-*
 21 *graph (C)(i)” and inserting “subparagraph (B)(i)”;*
 22 *and*

23 *(5) by redesignating subparagraphs (C) and (D)*
 24 *as subparagraphs (B) and (C), respectively.*

25 *(b) IMPLEMENTATION.—*

1 (1) *DTV ALLOTMENT TABLE OF IN-CORE CHAN-*
2 *NELS FOR FULL-POWER STATIONS.*—*The Federal*
3 *Communications Commission shall—*

4 (A) *release by December 31, 2006, a report*
5 *and order in MB Docket No. 03–15 assigning all*
6 *full-power broadcast television stations author-*
7 *ized in the digital television service a channel be-*
8 *tween channels 2 and 36, inclusive, or 38 and*
9 *51, inclusive (between frequencies 54 and 698*
10 *megahertz, inclusive);*

11 (B) *release by July 31, 2007, any reconsid-*
12 *eration of such report and order; and*

13 (C) *not adopt any further changes between*
14 *July 31, 2007, and January 1, 2009, to the*
15 *channels assigned to full-power broadcast tele-*
16 *vision stations for the provision of digital tele-*
17 *vision service unless doing so is necessary for*
18 *reasons of public safety or necessary to prevent*
19 *a delay in the end of broadcasting by full-power*
20 *stations in the analog television service.*

21 (2) *STATUS REPORTS.*—*Beginning with a report*
22 *on January 31, 2006, and ending with a report on*
23 *July 31, 2007, the Commission shall submit reports*
24 *to the Committee on Energy and Commerce of the*
25 *House of Representatives and the Committee on Com-*

1 *merce, Science, and Transportation of the Senate*
2 *every six months on the status of international co-*
3 *ordination with Canada and Mexico of the digital tel-*
4 *evision service table of allotments.*

5 (3) *TERMINATIONS OF ANALOG LICENSES AND*
6 *BROADCASTING.—The Federal Communications Com-*
7 *mission shall take such actions as are necessary to*
8 *terminate all licenses for full-power television stations*
9 *in the analog television service and to require the ces-*
10 *sation of broadcasting by full-power stations in the*
11 *analog television service by January 1, 2009.*

12 (4) *ADDITIONAL UNLICENSED SPECTRUM FOR*
13 *WIRELESS BROADBAND.—The Commission shall, with-*
14 *in one year after the date of enactment of this Act,*
15 *issue a final order in the matter of Unlicensed Oper-*
16 *ation in the TV Broadcast Bands (ET Docket No. 04–*
17 *186).*

18 (c) *TECHNICAL AMENDMENT.—Paragraph (15) of sec-*
19 *tion 309(j) of the Communications Act of 1934 (47 U.S.C.*
20 *309(j)), as added by section 203(b) of the Commercial Spec-*
21 *trum Enhancement Act (Public Law 108–494; 118 Stat.*
22 *3993), is redesignated as paragraph (16) of such section.*

23 **SEC. 3404. AUCTION OF RECOVERED SPECTRUM.**

24 (a) *DEADLINE FOR AUCTION.—Section 309(j)(15)(C)*
25 *of the Communications Act of 1934 (47 U.S.C.*

1 309(j)(15)(C) is amended by adding at the end the fol-
2 lowing new clauses:

3 “(v) *ADDITIONAL DEADLINES FOR RE-*
4 *COVERED ANALOG SPECTRUM.*—*Notwith-*
5 *standing subparagraph (B), the Commis-*
6 *sion shall conduct the auction of the licenses*
7 *for recovered analog spectrum by com-*
8 *mencing the bidding not later than January*
9 *7, 2008, and shall deposit the proceeds of*
10 *such auction in accordance with paragraph*
11 *(8)(E)(i) not later than June 30, 2008.*

12 “(vi) *RECOVERED ANALOG SPEC-*
13 *TRUM.*—*For purposes of clause (v), the term*
14 *‘recovered analog spectrum’ means the spec-*
15 *trum between channels 52 and 69, inclusive*
16 *(between frequencies 698 and 806 mega-*
17 *hertz, inclusive) reclaimed from analog tele-*
18 *vision service broadcasting under para-*
19 *graph (14), other than—*

20 *“(I) the spectrum required by sec-*
21 *tion 337 to be made available for pub-*
22 *lic safety services; and*

23 *“(II) the spectrum auctioned*
24 *prior to the date of enactment of the*

1 *Digital Television Transition Act of*
2 *2005.”.*

3 *(b) EXTENSION OF AUCTION AUTHORITY.—Paragraph*
4 *(11) of section 309(j) of such Act is repealed.*

5 *(c) STUDY OF AUCTION AUTHORITY.—*

6 *(1) INQUIRY AND STUDY REQUIRED.—Within*
7 *120 days after the date of enactment of this Act, the*
8 *Federal Communications Commission shall initiate*
9 *an ongoing inquiry and study—*

10 *(A) to evaluate the participation of women,*
11 *minorities, and small businesses in the auction*
12 *process, including the percentage of winning bid-*
13 *ders that are women, minorities, and small busi-*
14 *nesses; and*

15 *(B) to assess the efforts made by the Com-*
16 *mission to ensure that women, minorities, and*
17 *small businesses are able to successfully partici-*
18 *pate in the auction process.*

19 *(2) REPORT.—The Commission shall submit a*
20 *report to the Congress on the results of the inquiry*
21 *and study required by paragraph (1) at least bienni-*
22 *ally beginning not later than one year after the date*
23 *of enactment of this Act.*

1 **SEC. 3405. DIGITAL TELEVISION CONVERSION FUND.**

2 (a) *RESERVATION OF AUCTION PROCEEDS TO ASSIST*
 3 *CONVERSION.*—Section 309(j)(8) of the Communications
 4 Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

5 (1) in subparagraph (A), by striking “subpara-
 6 graph (B) or subparagraph (D)” and inserting “sub-
 7 paragraphs (B), (D), and (E)”;

8 (2) in subparagraph (C)(i), by inserting before
 9 the semicolon at the end the following: “, except as
 10 otherwise provided in subparagraph (E)(i)”; and

11 (3) by adding at the end the following new sub-
 12 paragraph:

13 “(E) *TRANSFER OF REVENUES FOR DIGITAL*
 14 *TELEVISION CONVERSION.*—

15 “(i) *PROCEEDS FOR DTV CONVERSION*
 16 *FUND.*—Notwithstanding subparagraph (A),
 17 of the proceeds (including deposits and up-
 18 front payments from successful bidders)
 19 from the use of a competitive bidding sys-
 20 tem under this subsection with respect to re-
 21 covered analog spectrum—

22 “(I) \$990,000,000 shall be depos-
 23 ited in a separate fund in the Treasury
 24 to be known as the ‘Digital Television
 25 Conversion Fund’, and be available ex-
 26 clusively to carry out section 159 of the

1 *National Telecommunications and In-*
2 *formation Administration Organiza-*
3 *tion Act;*

4 “(II) \$500,000,000 shall be depos-
5 *ited in a separate fund in the Treasury*
6 *to be known as the ‘Public Safety*
7 *Interoperable Communications Fund’,*
8 *and be available exclusively to carry*
9 *out section 160 of such Act;*

10 “(III) \$30,000,000 shall be depos-
11 *ited in a separate fund in the Treasury*
12 *to be known as the ‘NYC 9/11 Digital*
13 *Transition Fund’, and be available ex-*
14 *clusively to carry out section 161 of*
15 *such Act;*

16 “(IV) \$3,000,000 shall be depos-
17 *ited in a separate fund in the Treasury*
18 *to be known as the ‘Low-Power Dig-*
19 *ital-to-Analog Conversion Fund’, and*
20 *be available exclusively to carry out*
21 *section 162 of such Act; and*

22 “(V) *the remainder of such pro-*
23 *ceeds shall be deposited in the Treasury*
24 *in accordance with chapter 33 of title*
25 *31, United States Code.*

1 “(i) *RECOVERED ANALOG SPEC-*
2 *TRUM.—For purposes of clause (i), the term*
3 *‘recovered analog spectrum’ has the mean-*
4 *ing provided in paragraph (15)(C)(vi).”.*

5 (b) *CONVERTER BOX PROGRAM.—Part C of the Na-*
6 *tional Telecommunications and Information Administra-*
7 *tion Organization Act is amended by adding at the end*
8 *the following new section:*

9 **“SEC. 159. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.**

10 “(a) *CREATION OF PROGRAM.—The Assistant Sec-*
11 *retary—*

12 “(1) *shall use the funds available under sub-*
13 *section (d) of this section to implement and admin-*
14 *ister a program through which households in the*
15 *United States may obtain, upon request, up to two*
16 *coupons that can be applied toward the purchase of*
17 *digital-to-analog converter boxes, subject to the restric-*
18 *tions in this section and the regulations created there-*
19 *under; and*

20 “(2) *may award one or more contracts (includ-*
21 *ing a contract with another Federal agency) for the*
22 *administration of some or all of the program.*

23 “(b) *PROGRAM SPECIFICATIONS.—*

24 “(1) *FORM OF COUPON REQUEST.—The regula-*
25 *tions under this section shall prescribe the contents of*

1 *the coupon request form and the information any*
2 *household seeking a coupon shall provide on the form.*
3 *The coupon request form shall be required to include*
4 *instructions for its use and also describe, at a min-*
5 *imum, the requirements and limitations of the pro-*
6 *gram, the ways in which the form and the informa-*
7 *tion the household provides will be used, and to whom*
8 *the form and the information will be disclosed.*

9 *“(2) DISTRIBUTION OF COUPON REQUEST*
10 *FORMS.—*

11 *“(A) PAPER AND ELECTRONIC FORMS.—The*
12 *Assistant Secretary shall provide for the dis-*
13 *tribution of paper coupon request forms at Gov-*
14 *ernment buildings, including post offices. The*
15 *Assistant Secretary shall provide for the avail-*
16 *ability to households of electronic coupon request*
17 *forms, and may permit such forms to be sub-*
18 *mitted electronically.*

19 *“(B) ADDITIONAL DISTRIBUTION.—If the*
20 *Assistant Secretary determines that doing so*
21 *would make the program more successful and*
22 *easier for consumers to participate in, paper and*
23 *electronic coupon request forms shall also be dis-*
24 *tributed by such private entities as the Assistant*
25 *Secretary shall specify (such as retailers, manu-*

1 *facturers, broadcasters, religious organizations,*
2 *and consumer groups) and shall be distributed*
3 *in the manner specified by the Assistant Sec-*
4 *retary.*

5 “(3) *LIMITATIONS.—*

6 “(A) *TWO-PER-HOUSEHOLD MAXIMUM.—A*
7 *household may obtain coupons only by making a*
8 *request as required by the regulations under this*
9 *section. Any request must be made between Jan-*
10 *uary 1, 2008, and January 31, 2009, inclusive.*
11 *The Assistant Secretary shall ensure that each*
12 *requesting household receives no more than two*
13 *coupons.*

14 “(B) *NO COMBINATIONS OF COUPONS.—Two*
15 *coupons may not be used in combination toward*
16 *the purchase of a single digital-to-analog con-*
17 *verter box.*

18 “(C) *DURATION.—All coupons shall expire*
19 *3 months after issuance.*

20 “(4) *DISTRIBUTION OF COUPONS.—*

21 “(A) *Coupons shall be distributed to re-*
22 *questing households by mail and each coupon*
23 *shall be issued in the name of a member of the*
24 *requesting household, and shall include a unique*
25 *identification number as well as any other meas-*

1 *ures the Assistant Secretary deems necessary to*
2 *minimize fraud, counterfeiting, duplication, and*
3 *other unauthorized use.*

4 *“(B) Included on or provided with each*
5 *coupon shall be, at a minimum, instructions for*
6 *the coupon’s use and a description of the cou-*
7 *pon’s limitations.*

8 *“(C) The Assistant Secretary shall expend*
9 *not more than \$160,000,000 on administrative*
10 *expenses and shall ensure that the sum of all ad-*
11 *ministrative expenses for the program and the*
12 *total maximum value of all the coupons re-*
13 *deemed, and issued but not expired, does not ex-*
14 *ceed \$990,000,000.*

15 *“(D) The Assistant Secretary may expend*
16 *up to \$5,000,000 of the administrative expenses*
17 *on the public outreach program required by sec-*
18 *tion 330(d)(4) of the Communications Act of*
19 *1934 (47 U.S.C. 330(d)(4)). Such funds may be*
20 *used for grants to the Association of Public Tele-*
21 *vision Stations, in partnership with noncommer-*
22 *cial educational television broadcast stations (as*
23 *defined section 397(6) of the Communications*
24 *Act of 1934 (47 U.S.C. 397(6))) to carry out*
25 *such public outreach.*

1 “(5) *QUALIFYING PURCHASES.*—

2 “(A) *QUALIFYING BOX.*—*The regulations*
3 *shall specify methods for determining and identi-*
4 *fying the converter boxes that meet the definition*
5 *in subsection (g).*

6 “(B) *COUPON VALUE.*—*The value of each*
7 *coupon shall be \$40.*

8 “(6) *REDEMPTION OF COUPONS.*—*No coupon*
9 *shall be redeemed except upon submission of reason-*
10 *able proof that the individual redeeming the coupon*
11 *is the individual named on the coupon, and such ad-*
12 *ditional information as is required by the regulations*
13 *under this section. In the case of retail distribution*
14 *of digital-to-analog converter boxes over the Internet*
15 *or by telephone, submission of a valid credit card*
16 *number issued in the name of the household member,*
17 *the unique identification number on the coupon, the*
18 *address of the household, and such other information*
19 *as is required by the regulations under this section*
20 *shall be reasonable proof of identity, except that the*
21 *redemption of coupons over the Internet or by tele-*
22 *phone shall be prohibited if the Assistant Secretary*
23 *determines that such redemption would be unreason-*
24 *ably susceptible to fraud or other abuse.*

25 “(7) *RETAILER CERTIFICATION.*—

1 “(A) Any retailer desiring to qualify for
2 coupon reimbursement under this section shall,
3 in accordance with the regulations under this
4 section, be required to undergo a certification
5 process to qualify for participation in the pro-
6 gram.

7 “(B) As part of the certification process, re-
8 tailers shall be informed of the program’s details
9 and their rights and obligations, including their
10 obligations to honor all valid coupons that are
11 tendered in the authorized manner, and to keep
12 a reasonable number of eligible converter boxes
13 in stock.

14 “(8) COUPON REIMBURSEMENT AND RETAILER
15 AUDITING.—

16 “(A) REIMBURSEMENT.—The regulations
17 under this section shall establish the process by
18 which retailers may seek and obtain reimburse-
19 ment for the coupons, and shall include the op-
20 tion for retailers to seek and obtain reimburse-
21 ment electronically.

22 “(B) AUDITS.—Such regulations shall es-
23 tablish procedures for the auditing of retailer re-
24 imbursements.

1 “(9) *APPEALS.*—*The regulations under this sec-*
2 *tion shall establish an appeals process for the review*
3 *and resolution of complaints—*

4 “(A) *by a household alleging that—*

5 “(i) *the household was improperly de-*
6 *nied a coupon;*

7 “(ii) *a valid coupon properly tendered*
8 *was not honored; or*

9 “(iii) *the household was otherwise*
10 *harmed by another violation of this section*
11 *or such regulations; or*

12 “(B) *by a retailer of digital-to-analog con-*
13 *verter boxes alleging that the retailer was im-*
14 *properly denied reimbursement for a valid cou-*
15 *pon properly tendered and accepted under this*
16 *section or such regulations.*

17 *All such complaints shall be resolved within 30 days*
18 *after receipt of the complaint.*

19 “(10) *ENFORCEMENT.*—*The regulations under*
20 *this section shall provide for the termination of eligi-*
21 *bility to participate in the program for retailers or*
22 *households that engage in fraud, misrepresentation, or*
23 *other misconduct in connection with the program, or*
24 *that otherwise violate this section or such regulations.*

1 “(11) *PROGRESS REPORT.*—Beginning with a
2 report on March 31, 2008, and ending with a report
3 on June 30, 2009, the Assistant Secretary shall sub-
4 mit reports to the Committee on Energy and Com-
5 merce of the House of Representatives and the Com-
6 mittee on Commerce, Science, and Transportation of
7 the Senate, every three months summarizing the
8 progress of coupon distribution and redemption, in-
9 cluding how many coupons are being distributed and
10 redeemed, and how quickly.

11 “(c) *PRIVACY.*—The program under this section shall
12 ensure that personally identifiable information collected in
13 connection with the program under this section is not used
14 or shared for any other purpose than as described in this
15 section, except as otherwise required or authorized by law.
16 For purposes of this subsection, the term ‘personally identi-
17 fiable information’ shall have the same meaning as pro-
18 vided in section 338(i)(2).

19 “(d) *AVAILABILITY OF FUNDS.*—

20 “(1) *IN GENERAL.*—From the Digital Television
21 Conversion Fund established by section
22 309(j)(8)(E)(i)(I) of the Communications Act of 1934,
23 there shall be available to carry out this section such
24 sums as may be necessary for fiscal years 2008 and
25 2009. Any sums that remain unexpended in the Fund

1 *at the end of fiscal year 2009 shall revert to and be*
2 *deposited in the general fund of the Treasury.*

3 “(2) *CREDIT.*—*The Assistant Secretary may bor-*
4 *row from the Treasury such sums as may be nec-*
5 *essary not to exceed \$990,000,000 to implement and*
6 *administer the program in accordance with this sec-*
7 *tion. The Assistant Secretary shall reimburse the*
8 *Treasury, without interest, as funds are deposited*
9 *into the Digital Television Conversion Fund under*
10 *section 309(j)(8)(E) of such Act.*

11 “(e) *ENERGY STANDARDS REQUIRED.*—

12 “(1) *STANDARD.*—*The maximum energy con-*
13 *sumption for the passive standby mode of a digital-*
14 *to-analog converter box shall be no more than 9 watts.*

15 “(2) *ENFORCEMENT.*—*The Secretary of Energy*
16 *shall enforce the requirements of paragraph (1). Any*
17 *converter box that the Secretary of Energy determines*
18 *is not in compliance with the requirements of para-*
19 *graph (1) shall not be eligible for purchase with as-*
20 *sistance made available under this section.*

21 “(3) *PREEMPTION.*—*No State or any political*
22 *subdivision thereof may establish or enforce any law,*
23 *rule, regulation, or other provision having the force of*
24 *law that regulates the energy output, usage, or con-*

1 *sumption standards for a digital-to-analog converter*
2 *box.*

3 “(f) *IMPLEMENTATION.*—*The Secretary of Commerce*
4 *shall promulgate, within 9 months after the date of enact-*
5 *ment of the Digital Television Transition Act of 2005, such*
6 *regulations as are necessary to carry out this section.*

7 “(g) *DEFINITION.*—*For purposes of this section:*

8 “(1) *DIGITAL-TO-ANALOG CONVERTER BOX.*—*The*
9 *term ‘digital-to-analog converter box’ means a stand-*
10 *alone device that does not contain features or func-*
11 *tions except those necessary to enable a consumer to*
12 *convert any channel broadcast in the digital television*
13 *service into a format that the consumer can display*
14 *on television receivers designed to receive and display*
15 *signals only in the analog television service.*

16 “(2) *HOUSEHOLD.*—*The term ‘household’ means*
17 *the residents at a residential street or rural route ad-*
18 *dress, and shall not include a post office box.*

19 “(3) *STANDBY PASSIVE MODE.*—*The term ‘stand-*
20 *by passive mode’ means a low power state the digital-*
21 *to-analog converter device enters while connected to a*
22 *power source which fulfills not the main function but*
23 *can be switched into another mode by means of an in-*
24 *ternal or external signal.”.*

1 **SEC. 3406. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
2 **TIONS FUND.**

3 *Part C of the National Telecommunications and Infor-*
4 *mation Administration Organization Act is amended by*
5 *adding after section 159 (as added by section 3405(b) of*
6 *this Act) the following new section:*

7 **“SEC. 160. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
8 **TIONS FUND.**

9 *“(a) PROGRAM AUTHORIZED.—From the funds avail-*
10 *able under subsection (f), the Assistant Secretary shall*
11 *carry out a grant program to assist public safety agencies*
12 *in the acquisition of, deployment of, or training for the use*
13 *of interoperable communications systems that utilize, or en-*
14 *able interoperability with communications systems that can*
15 *utilize, reallocated public safety spectrum for radio commu-*
16 *nications.*

17 *“(b) TERMS AND CONDITIONS OF GRANTS.—In order*
18 *to obtain a grant under this section, a public safety agency*
19 *shall—*

20 *“(1) submit an application to the Assistant Sec-*
21 *retary at such time, in such form, and containing or*
22 *accompanied by such information and assurances as*
23 *the Assistant Secretary shall require;*

24 *“(2) agree that, if awarded a grant, the public*
25 *safety agency will submit annual reports to the As-*

1 *Assistant Secretary for the duration of the grant award*
2 *period with respect to—*

3 *“(A) the expenditure of grant funds; and*

4 *“(B) progress toward acquiring and deploy-*
5 *ing interoperable communications systems fund-*
6 *ed by the grant;*

7 *“(3) agree to provide, from non-Federal sources,*
8 *not less than 20 percent of the costs of acquiring and*
9 *deploying the interoperable communications systems*
10 *acquired and deployed with funds provided under this*
11 *section; and*

12 *“(4) agree to remit to the Assistant Secretary*
13 *any grant funds that remain unexpended at the end*
14 *of the 3-year period of the grant.*

15 *“(c) DURATION OF GRANT; RECOVERY OF UNUSED*
16 *FUNDS.—Grants under this section shall be awarded in the*
17 *form of a single grant for a period of not more than 3 years.*
18 *At the end of 3 years, any grant funds that remain unex-*
19 *pendent shall be remitted by the grantee to the Assistant Sec-*
20 *retary, and, subject to subsection (f)(2), may be awarded*
21 *to other eligible grant recipients. At the end of fiscal year*
22 *2010, any such reawarded grant funds that remain unex-*
23 *pendent shall be remitted by the grantee to the Assistant Sec-*
24 *retary and may not be reawarded to other grantees.*

1 “(d) *OVERSIGHT OF EXPENDITURES.*—*The Assistant*
2 *Secretary shall submit to the Committee on Commerce,*
3 *Science, and Transportation of the Senate and the Com-*
4 *mittee on Energy and Commerce, not later than 6 months*
5 *after the first award of a grant under this section and every*
6 *6 months thereafter until October 1, 2010, a report—*

7 “(1) *identifying, on a State-by-State basis, using*
8 *the information submitted under subsection (b)(2), the*
9 *results of the program, including an identification, on*
10 *a State-by-State basis, of—*

11 “(A) *the public safety agencies awarded a*
12 *grant;*

13 “(B) *the amount of the grant;*

14 “(C) *the specified use for the grant; and*

15 “(D) *how each such grant was spent; and*

16 “(2) *stating the cumulative total of the amount*
17 *of grants awarded, and the balance, if any, remain-*
18 *ing in the Public Safety Interoperable Communica-*
19 *tions Fund; and*

20 “(3) *in the final such report, stating the amount*
21 *in the Fund that reverted to the general fund of the*
22 *Treasury.*

23 “(e) *REGULATIONS.*—*The Secretary is authorized to*
24 *prescribe such regulations as are necessary to carry out this*
25 *section.*

1 “(f) *AVAILABILITY OF FUNDS.*—

2 “(1) *AVAILABILITY.*—*From the Public Safety*
3 *Interoperable Communications Fund established by*
4 *section 309(j)(8)(E)(i)(II) of the Communications Act*
5 *of 1934, there shall be available to carry out this sec-*
6 *tion such sums as may be necessary for fiscal years*
7 *2008, 2009, and 2010.*

8 “(2) *REVERSION.*—*Any sums that remain unex-*
9 *pended in the Fund at the end of fiscal year 2010*
10 *shall revert to and be deposited in the general fund*
11 *of the Treasury.*

12 “(g) *DEFINITIONS.*—*For purposes of this section:*

13 “(1) *PUBLIC SAFETY AGENCY.*—*The term ‘public*
14 *safety agency’ means any State or local government*
15 *entity, or nongovernmental organization authorized*
16 *by such entity, whose sole or principal purpose is to*
17 *protect the safety of life, health, or property.*

18 “(2) *INTEROPERABLE COMMUNICATIONS SYS-*
19 *TEMS.*—*The term ‘interoperable communications sys-*
20 *tems’ means communications systems which enable*
21 *public safety agencies to share information amongst*
22 *local, State, and Federal public safety agencies in the*
23 *same area via voice or data signals.*

24 “(3) *REALLOCATED PUBLIC SAFETY SPEC-*
25 *TRUM.*—*The term ‘reallocated public safety spectrum’*

1 *means the bands of spectrum located at 764 -776*
 2 *megahertz and 794–806 megahertz, inclusive.”.*

3 **SEC. 3407. NYC 9/11 DIGITAL TRANSITION FUND.**

4 *Part C of the National Telecommunications and Infor-*
 5 *mation Administration Organization Act is amended by*
 6 *adding after section 160 (as added by section 3406 of this*
 7 *Act) the following new section:*

8 **“SEC. 161. NYC 9/11 DIGITAL TRANSITION FUND.**

9 *“(a) FUNDS AVAILABLE.—From the NYC 9/11 Digital*
 10 *Transition Fund established by section 309(j)(8)(E)(i)(III)*
 11 *of the Communications Act of 1934, there shall be available*
 12 *to carry out this section such sums as may be necessary*
 13 *for fiscal years 2006 through 2008. Any sums that remain*
 14 *unexpended in the Fund at the end of fiscal year 2008 shall*
 15 *revert to and be deposited in the general fund of the Treas-*
 16 *ury. The Assistant Secretary may borrow from the Treasury*
 17 *such sums as may be necessary not to exceed \$30,000,000*
 18 *to implement and administer the program in accordance*
 19 *with this section. The Assistant Secretary shall reimburse*
 20 *the Treasury, without interest, as funds are deposited into*
 21 *the NYC 9/11 Digital Transition Fund under section*
 22 *309(j)(8)(E) of such Act.*

23 *“(b) USE OF FUNDS.—The sums available under sub-*
 24 *section (a) shall be made available by the Assistant Sec-*
 25 *retary by grant to be used to reimburse the Metropolitan*

1 *Television Alliance for costs incurred in the design and de-*
2 *ployment of a temporary digital television broadcast system*
3 *to ensure that, until a permanent facility atop the Freedom*
4 *Tower is constructed, the members of the Metropolitan Tele-*
5 *vision Alliance can provide the New York City area with*
6 *an adequate digital television signal as determined by the*
7 *Federal Communications Commission.*

8 “(c) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
9 *tion shall be construed to alter or otherwise affect the Fed-*
10 *eral Communications Commission’s authority with respect*
11 *to licensing and interference regulation.*

12 “(d) *DEFINITIONS.*—*For purposes of this section:*

13 “(1) *The term ‘Metropolitan Television Alliance’*
14 *means the organization formed by New York City tel-*
15 *evision broadcast station licensees to locate new*
16 *shared facilities as a result of the attacks on Sep-*
17 *tember 11, 2001 and the loss of use of shared facilities*
18 *that housed broadcast equipment.*

19 “(2) *The term ‘New York City area’ means the*
20 *five counties comprising New York City and counties*
21 *of northern New Jersey in immediate proximity to*
22 *New York City (Bergen, Essex, Union and Hudson*
23 *Counties) .”.*

1 **SEC. 3408. LOW-POWER TELEVISION TRANSITION PROVI-**
2 **SIONS.**

3 (a) *REMOVAL AND RELOCATION.*—Section 337(e) of the
4 *Communications Act of 1934 (47 U.S.C. 337(e))* is amend-
5 *ed—*

6 (1) *in paragraph (1), by striking “person who”*
7 *and inserting “full-power television station licensee*
8 *that”;*

9 (2) *in paragraph (2), by striking “746 mega-*
10 *hertz” and inserting “698 megahertz”; and*

11 (3) *by adding at the end the following new para-*
12 *graph:*

13 “(3) *CONTINUATION OF LOW-POWER BROAD-*
14 *CASTING.*—Subject to section 336(f) of the *Communi-*
15 *communications Act (47 U.S.C. 336(f)), a low-power tele-*
16 *vision station, television translator station, or tele-*
17 *vision booster station (as defined by Commission regu-*
18 *lations) may operate above 698 megahertz on a sec-*
19 *ondary basis in accordance with Commission rules,*
20 *including rules governing completion of the digital*
21 *television service transition for low-power broad-*
22 *casters.”.*

23 (b) *EXEMPTION FROM DEADLINE.*—Section
24 *309(j)(14)(A) of such Act (47 U.S.C. 309(j)(14)(A))* is
25 *amended by inserting “full-power” before “television broad-*
26 *cast license”.*

1 (c) *ADVANCED TELEVISION SERVICES.*—Section
2 *336(f)(4) of such Act (47 U.S.C. 336(f)(4)) is amended by*
3 *inserting “or other low-power station” after “television*
4 *translator station” in the first sentence.*

5 (d) *LOW-POWER TELEVISION DIGITAL-TO-ANALOG*
6 *CONVERSION.*—*Part C of the National Telecommunications*
7 *and Information Administration Organization Act is*
8 *amended by adding after section 161 (as added by section*
9 *3407 of this Act) the following new section:*

10 **“SEC. 162. LOW-POWER TELEVISION DIGITAL-TO-ANALOG**
11 **CONVERSION.**

12 “(a) *CREATION OF PROGRAM.*—*The Assistant Sec-*
13 *retary shall use the funds available under subsection (d)*
14 *from the Low-Power Digital-to-Analog Conversion Fund to*
15 *implement and administer a program through which each*
16 *eligible low-power television station may receive compensa-*
17 *tion toward the cost of the purchase of a digital-to-analog*
18 *conversion device that enables it to convert the incoming*
19 *digital signal of its corresponding full-power television sta-*
20 *tion to analog format for transmission on the low-power*
21 *television station’s analog channel. An eligible low-power*
22 *television station may receive such compensation only if it*
23 *submits a request for such compensation on or before De-*
24 *cember 31, 2008.*

1 “(b) *ELIGIBLE STATIONS.*—*For purposes of this sec-*
2 *tion, an eligible low-power television station shall be a low-*
3 *power television broadcast station, Class A television sta-*
4 *tion, television translator station, or television booster sta-*
5 *tion—*

6 “(1) *that is itself broadcasting exclusively in*
7 *analog format; and*

8 “(2) *that has not purchased a digital-to-analog*
9 *conversion device prior to enactment of this section.*

10 “(c) *QUALIFYING DEVICES AND AMOUNTS.*—*The As-*
11 *sistant Secretary—*

12 “(1) *may determine the types of digital-to-analog*
13 *conversion devices for which an eligible low-power*
14 *broadcast television station may receive compensation*
15 *under this section; and*

16 “(2) *shall determine the maximum amount of*
17 *compensation such a low-power television broadcast*
18 *station may receive based on the average cost of such*
19 *digital-to-analog conversion devices during the time*
20 *period such low-power broadcast television station*
21 *purchased the digital-to-analog conversion device, but*
22 *in no case shall such compensation exceed \$400.*

23 “(d) *FUNDS AVAILABLE.*—*From the Low-Power Dig-*
24 *ital-to-Analog Conversion Fund established by section*
25 *309(j)(8)(E)(i)(IV) of the Communications Act of 1934,*

1 *there shall be available to carry out this section such sums*
 2 *as may be necessary for fiscal years 2008 and 2009. Any*
 3 *sums that remain unexpended in such Fund at the end of*
 4 *fiscal year 2009 shall revert to and be deposited in the gen-*
 5 *eral fund of the Treasury.”.*

6 *(e) REPORT AND ORDER REQUIRED.—The Federal*
 7 *Communications Commission shall, not later than Decem-*
 8 *ber 31, 2008, issue a report and order specifying the meth-*
 9 *ods and schedule by which the Commission will complete*
 10 *the digital television service transition for low-power broad-*
 11 *casters.*

12 **SEC. 3409. CONSUMER EDUCATION REGARDING ANALOG**
 13 **TELEVISIONS.**

14 *(a) COMMISSION AUTHORITY.—Section 303 of the*
 15 *Communications Act of 1934 (47 U.S.C. 303) is amended*
 16 *by adding at the end the following new subsection:*

17 *“(z) Require the consumer education measures speci-*
 18 *fied in section 330(d) in the case of apparatus designed to*
 19 *receive television signals that—*

20 *“(1) are shipped in interstate commerce or man-*
 21 *ufactured in the United States;*

22 *“(2) have an integrated display screen or are*
 23 *sold in a bundle with a display screen; and*

24 *“(3) are not capable of receiving broadcast sig-*
 25 *nals in the digital television service.”.*

1 **(b) CONSUMER EDUCATION REQUIREMENTS.**—*Section*
 2 *330 of the Communications Act of 1934 (47 U.S.C. 330)*
 3 *is amended—*

4 (1) *in subsection (d), by striking “sections*
 5 *303(s), 303(u), and 303(x)” and inserting “sub-*
 6 *sections (s), (u), (x), and (z) of section 303”;*

7 (2) *by redesignating subsection (d) as subsection*
 8 *(e); and*

9 (3) *by inserting after subsection (c) the following*
 10 *new subsection:*

11 **“(d) CONSUMER EDUCATION REGARDING ANALOG**
 12 **TELEVISION RECEIVERS.**—

13 **“(1) REQUIREMENTS FOR MANUFACTURERS.**—
 14 *Any manufacturer of any apparatus described in sec-*
 15 *tion 303(z) shall—*

16 **“(A) place in a conspicuous place on any**
 17 *such apparatus that such manufacturer ships in*
 18 *interstate commerce or manufactures in the*
 19 *United States after 180 days after the date of en-*
 20 *actment of the Digital Television Transition Act*
 21 *of 2005, a label containing, in clear and con-*
 22 *spicuous print, the warning language required*
 23 *by paragraph (3); and*

24 **“(B) also include after 180 days after the**
 25 *date of enactment of the Digital Television Tran-*

1 *sition Act of 2005, such warning language on the*
2 *outside of the retail packaging of such appa-*
3 *ratus, in a conspicuous place and in clear and*
4 *conspicuous print, in a manner that cannot be*
5 *removed.*

6 “(2) *REQUIREMENTS FOR RETAIL DISTRIBUTU-*
7 *TORS.—Any retail distributor shall place conspicu-*
8 *ously in the vicinity of each apparatus described in*
9 *section 303(z) that such distributor displays for sale*
10 *or rent after 45 days after the date of enactment of*
11 *the Digital Television Transition Act of 2005, a sign*
12 *containing, in clear and conspicuous print, the warn-*
13 *ing language required by paragraph (3). In the case*
14 *of a retail distributor vending such apparatus via di-*
15 *rect mail, catalog, or electronic means, such as dis-*
16 *plays on the Internet, the warning language required*
17 *by such paragraph shall be prominently displayed, in*
18 *clear and conspicuous print, in the vicinity of any*
19 *language describing the product.*

20 “(3) *WARNING LANGUAGE.—The warning lan-*
21 *guage required by this paragraph shall read as fol-*
22 *lows: ‘This television has only an analog broadcast*
23 *tuner. After December 31, 2008, television broad-*
24 *casters will broadcast only in digital format. You will*
25 *then need to connect this television to a digital-to-*

1 *analog converter box or cable or satellite service if you*
2 *wish to receive broadcast programming. The device, if*
3 *any, that a cable or satellite subscriber will need to*
4 *connect to an analog television will depend on the*
5 *cable or satellite service provider. The television*
6 *should continue to work as before, however, with de-*
7 *vices such as VCRs, digital video recorders, DVD*
8 *players, and video game systems. For more informa-*
9 *tion, call the Federal Communications Commission at*
10 *1-888-225-5322 (TTY: 1-888-835-5322) or visit the*
11 *Commission's website at: www.fcc.gov.'.*

12 “(4) COMMISSION AND NTIA OUTREACH.—Begin-

13 *ning within one month after the date of enactment of*
14 *the Digital Television Transition Act of 2005, the*
15 *Commission and the National Telecommunications*
16 *and Information Administration shall engage, either*
17 *jointly or separately, in a public outreach program,*
18 *including the distribution of materials on their web*
19 *sites and in Government buildings, such as post of-*
20 *fices, to educate consumers regarding the digital tele-*
21 *vision transition. The Commission and the National*
22 *Telecommunications and Information Administration*
23 *may seek public comment in crafting their public out-*
24 *reach program, and may seek the assistance of private*
25 *entities, such as broadcasters, manufacturers, retail-*

1 *ers, cable and satellite operators, and consumer*
2 *groups in administering the public outreach program.*

3 *The program shall educate consumers about—*

4 *“(A) the deadline for termination of analog*
5 *television broadcasting;*

6 *“(B) the options consumers have after such*
7 *termination to continue to receive broadcast pro-*
8 *gramming; and*

9 *“(C) the converter box program under sec-*
10 *tion 159 of the National Telecommunications*
11 *and Information Administration Organization*
12 *Act.*

13 *“(5) ADDITIONAL DISCLOSURES.—*

14 *“(A) ANNOUNCEMENTS AND NOTICES RE-*
15 *QUIRED.—From January 1, 2008, through De-*
16 *cember 31, 2008—*

17 *“(i) each television broadcaster shall*
18 *air, at a minimum, two 60-second public*
19 *service announcements per day, one during*
20 *the 8 to 9 a.m. hour and one during the 8*
21 *to 9 p.m. hour; and*

22 *“(ii) each multichannel video program*
23 *distributor (as such term is defined in sec-*
24 *tion 602 of this Act) shall include a notice*
25 *in any periodic bill.*

1 “(B) *CONTENTS OF ANNOUNCEMENTS AND*
2 *NOTICES.—The announcements and notices re-*
3 *quired by subparagraphs (A)(i) and (A)(ii), re-*
4 *spectively, shall state, at a minimum, that:*
5 *‘After December 31, 2008, television broadcasters*
6 *will broadcast only in digital format. You will*
7 *then no longer be able to receive broadcast pro-*
8 *gramming on analog-only televisions unless those*
9 *televisions are connected to a digital-to-analog*
10 *converter box or a cable or satellite service. The*
11 *device, if any, that a cable or satellite subscriber*
12 *will need to connect to an analog television will*
13 *depend on the cable or satellite service provider.*
14 *Analog-only televisions should continue to work*
15 *as before, however, with devices such as VCRs,*
16 *digital video recorders, DVD players, and video*
17 *game systems. You may be eligible for up to two*
18 *coupons toward the purchase of up to two con-*
19 *verter-boxes. For more information, call the Fed-*
20 *eral Communications Commission at 1-888-*
21 *225-5322 (TTY: 1-888-835-5322) or visit the*
22 *Commission’s website at: www.fcc.gov.’*
23 “(6) *REPORT REQUIRED.—Beginning January*
24 *31, 2006, and ending July 31, 2008, the Commission*
25 *and the National Telecommunications and Informa-*

1 *tion Administration, either jointly or separately, shall*
2 *submit reports every six months to the Committee on*
3 *Energy and Commerce of the House of Representa-*
4 *tives and the Committee on Commerce, Science, and*
5 *Transportation of the Senate, on the Commission's*
6 *and such Administration's consumer education ef-*
7 *forts, as well as the consumer education efforts of*
8 *broadcasters, cable and satellite operators, consumer*
9 *electronics manufacturers, retailers, and consumer*
10 *groups. The Commission and such Administration*
11 *may solicit public comment in preparing their re-*
12 *ports."*

13 *(c) PRESERVING AND EXPEDITING TUNER MAN-*
14 *DATES.—The Federal Communications Commission—*

15 *(1) shall, within 30 days after the date of enact-*
16 *ment of this Act revise the digital television reception*
17 *capability implementation schedule under section*
18 *15.117(i) of its regulations (47 CFR 15.117(i)) to re-*
19 *quire, in the case of television reception devices that*
20 *have, or are sold in a bundle with, display screens*
21 *sized 13 to 24 inches, inclusive, that 100 percent of*
22 *all such units must include digital television tuners*
23 *effective March 1, 2007; and*

24 *(2) shall not make any other changes that extend*
25 *or otherwise delay the digital television reception ca-*

1 *pability implementation schedule for television recep-*
 2 *tion devices that have, or are sold in a bundle with,*
 3 *display screens.*

4 **SEC. 3410. ADDITIONAL PROVISIONS.**

5 (a) *DIGITAL-TO-ANALOG CONVERSION.*—*Section*
 6 *614(b) of the Communications Act of 1934 (47 U.S.C.*
 7 *534(b)) is amended by adding at the end the following new*
 8 *paragraphs:*

9 *“(11) CARRIAGE OF DIGITAL FORMATS.—*

10 *“(A) PRIMARY VIDEO STREAM.—With re-*
 11 *spect to any television station that is transmit-*
 12 *ting broadcast programming exclusively in the*
 13 *digital television service in a local market, a*
 14 *cable operator of a cable system in that market*
 15 *shall carry the station’s primary video stream*
 16 *and program-related material in the digital for-*
 17 *mat transmitted by that station, without mate-*
 18 *rial degradation, if the licensee for that sta-*
 19 *tion—*

20 *“(i) relies on this section or section 615*
 21 *to obtain carriage of the primary video*
 22 *stream and program-related material on*
 23 *that cable system in that market; and*

24 *“(ii) permits the cable system to carry*
 25 *without compensation any other program-*

1 *ming broadcast by that station that is car-*
2 *ried on that system.*

3 “(B) *MULTIPLE FORMATS PERMITTED.*—A
4 *cable operator of a cable system may offer the*
5 *primary video stream and program-related ma-*
6 *terial of a local television station described in*
7 *subparagraph (A) in any analog or digital for-*
8 *mat or formats, whether or not doing so requires*
9 *conversion from the format transmitted by the*
10 *local television station, so long as—*

11 “(i) *the cable operator offers the pri-*
12 *mary video stream and program-related*
13 *material in the converted analog or digital*
14 *format or formats without material deg-*
15 *radation; and*

16 “(ii) *also offers the primary video*
17 *stream and program-related material in the*
18 *manner or manners required by this para-*
19 *graph.*

20 “(C) *TRANSITIONAL CONVERSIONS.*—Not-
21 *withstanding the requirement in subparagraph*
22 *(A) to carry the primary video stream and pro-*
23 *gram-related material in the digital format*
24 *transmitted by the local television station, but*

1 *subject to the prohibition on material degrada-*
2 *tion, until January 1, 2014—*

3 “(i) a cable operator—

4 “(I) shall offer the primary video
5 stream and program-related material
6 in the format or formats necessary for
7 such stream and material to be
8 viewable on analog and digital tele-
9 visions; and

10 “(II) may convert the primary
11 video stream and program-related ma-
12 terial to standard-definition digital
13 format in lieu of offering it in the dig-
14 ital format transmitted by the local tel-
15 evision station;

16 “(ii) notwithstanding clause (i), a
17 cable operator of a cable system with an ac-
18 tivated capacity of 550 megahertz or less—

19 “(I) shall offer the primary video
20 stream and program-related material
21 of the local television station described
22 in subparagraph (A), converted to an
23 analog format; and

24 “(II) may, but shall not be re-
25 quired to, offer the primary video

1 *stream and program-related material*
2 *in any digital format or formats.*

3 “(D) *LOCATION AND METHOD OF CONVER-*
4 *SION.—*

5 “(i) *A cable operator of a cable system*
6 *may perform any conversion permitted or*
7 *required by this paragraph at any location,*
8 *from the cable head-end to the customer*
9 *premises, inclusive.*

10 “(ii) *Notwithstanding any other provi-*
11 *sion of this Act other than the prohibition*
12 *on material degradation, a cable operator*
13 *may use switched digital video technology to*
14 *accomplish any conversion or transmission*
15 *permitted or required by this paragraph.*

16 “(E) *CONVERSIONS NOT TREATED AS DEG-*
17 *RADATION.—Any conversion permitted or re-*
18 *quired by this paragraph shall not, by itself, be*
19 *treated as a material degradation.*

20 “(F) *CARRIAGE OF PROGRAM-RELATED MA-*
21 *TERIAL.—The obligation to carry program-re-*
22 *lated material under this paragraph is effective*
23 *only to the extent technically feasible.*

24 “(G) *DEFINITION OF STANDARD-DEFINITION*
25 *FORMAT.—For purposes of this paragraph, a*

1 *stream shall be in standard definition digital*
2 *format if such stream meets the criteria for such*
3 *format as specified in the standard recognized by*
4 *the Commission in section 73.682 of its rules (47*
5 *CFR 73.682) or a successor regulation.”.*

6 **(b) TIERING.**—*Clause (iii) of section 623(b)(7)(A) of*
7 *such Act (47 U.S.C. 543(b)(7)(A)(iii)) is amended to read*
8 *as follows:*

9 *“(iii) Both of the following signals:*

10 *“(I) the primary video stream*
11 *and program-related material of any*
12 *television broadcast station that is pro-*
13 *vided by the cable operator to any sub-*
14 *scriber in an analog format, and*

15 *“(II) the primary video stream*
16 *and program-related material—*

17 *“(aa) of any television*
18 *broadcast station that is transmit-*
19 *ting exclusively in digital format,*
20 *and*

21 *“(bb) that is provided by the*
22 *cable operator to any subscriber*
23 *in a digital format,*

1 *but excluding a signal that is secondarily*
2 *transmitted by a satellite carrier beyond the*
3 *local service area of such station.”.*

4 (c) *COMPARABLE TREATMENT OF SATELLITE CAR-*
5 *RIERS.—Section 338 of the Communications Act of 1934*
6 *(47 U.S.C. 338) is amended—*

7 (1) *by adding at the end the following new sub-*
8 *section:*

9 “(l) *SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-*
10 *ITAL TRANSITION.—*

11 “(1) *CARRIAGE OF DIGITAL FORMATS.—With re-*
12 *spect to any television station that requests carriage*
13 *under this section and that is transmitting broadcast*
14 *programming exclusively in the digital television*
15 *service in a local market in the contiguous United*
16 *States (hereafter in this paragraph referred to as an*
17 *eligible requesting station), a satellite carrier car-*
18 *rying the digital signal of any other local television*
19 *station in that local market shall carry the eligible re-*
20 *questing station’s primary video stream and pro-*
21 *gram-related material, without material degradation,*
22 *if the licensee for that eligible requesting station—*

23 “(A) *relies on this section to obtain carriage*
24 *of the primary video stream and program-related*

1 *material by that satellite carrier in that market;*
2 *and*

3 “(B) *permits the satellite carrier to carry*
4 *without compensation any other programming*
5 *broadcast by that local station that is carried on*
6 *that system.*

7 “(2) *FORMATTING OF PRIMARY VIDEO STREAM.—*
8 *A satellite carrier must offer the primary video*
9 *stream and program-related material of an eligible*
10 *requesting station in the digital format transmitted*
11 *by the station if the satellite carrier carries the pri-*
12 *mary video stream of any other local television sta-*
13 *tion in that local market in the same digital format.*

14 “(3) *MULTIPLE FORMATS PERMITTED.—A sat-*
15 *ellite carrier may offer the primary video stream and*
16 *program-related material of an eligible requesting sta-*
17 *tion in any analog or digital format or formats,*
18 *whether or not doing so requires conversion from the*
19 *format transmitted by that eligible requesting station,*
20 *so long as—*

21 “(A) *the satellite carrier offers the primary*
22 *video stream and program-related material in*
23 *the converted analog or digital format or formats*
24 *without material degradation; and*

1 “(B) also offers the primary video stream
2 and program-related material in the manner or
3 manners required by this subsection.

4 “(4) *TRANSITIONAL CONVERSIONS.*—Notwith-
5 standing any requirement in paragraphs (1) and (2)
6 to carry the primary video stream and program-re-
7 lated material in the digital format transmitted by
8 the local television station, but subject to the prohibi-
9 tion on material degradation, until January 1, 2014,
10 a satellite carrier—

11 “(A) shall offer the primary video stream
12 and program-related material of any local tele-
13 vision broadcast station required to be carried
14 under paragraph (1) in the format necessary for
15 such stream to be viewable on analog and digital
16 televisions; and

17 “(B) may convert the primary video stream
18 and program-related material to standard-defi-
19 nition format in lieu of offering it in the digital
20 format transmitted by the local television sta-
21 tion.

22 “(5) *LOCATION AND METHOD OF CONVERSION.*—
23 A satellite carrier may perform any conversion per-
24 mitted or required by this subsection at any location,

1 *from the local receive facility to the customer prem-*
2 *ises, inclusive.*

3 “(6) *CONVERSIONS NOT TREATED AS DEGRADA-*
4 *TION.—Any conversion permitted or required by this*
5 *subsection shall not, by itself, be treated as a material*
6 *degradation.*

7 “(7) *CARRIAGE OF PROGRAM-RELATED MATE-*
8 *RIAL.—The obligation to carry program-related mate-*
9 *rial under this subsection is effective only to the ex-*
10 *tent technically feasible.*

11 “(8) *DEFINITION OF STANDARD-DEFINITION FOR-*
12 *MAT.—For purposes of this subsection, a stream shall*
13 *be in standard definition digital format if such*
14 *stream meets the criteria for such format as specified*
15 *in the standard recognized by the Commission in sec-*
16 *tion 73.682 of its rules (47 CFR 73.682) or a suc-*
17 *cessor regulation.”;*

18 (2) *in subsection (b)(1), by striking “subsection*
19 *(a)” and inserting “subsection (a) or (l)”;*

20 (3) *in subsection (c)(1), by striking “subsection*
21 *(a)(1)” and inserting “subsections (a)(1) and (l)”;*
22 *and*

23 (4) *in subsection (c)(2), by striking “subsection*
24 *(a)” and inserting “subsections (a) and (l)”.*

1 (d) *DEADLINE.*—*The Federal Communications Com-*
2 *mission shall revise its regulations to implement the amend-*
3 *ments made by this section within one year after the date*
4 *of enactment of this Act.*

5 **SEC. 3411. DEPLOYMENT OF BROADBAND WIRELESS TECH-**
6 **NOLOGIES.**

7 *Not later than 45 days after the effective date of this*
8 *Act, the Commission shall initiate a rulemaking to assess*
9 *the necessity of rechannelizing the spectrum located between*
10 *767–773 megahertz and 797–803 megahertz to accommo-*
11 *date broadband applications. Such rulemaking shall be*
12 *completed within 180 days.*

13 **SEC. 3412. SENSE OF CONGRESS.**

14 (a) *FINDINGS.*—*The Congress finds the following:*

15 (1) *The wireless communications industry in the*
16 *United States is becoming increasingly concentrated:*
17 *there are currently no ownership limitations on wire-*
18 *less companies, and the five largest wireless carriers*
19 *in the United States control nearly 90 percent of*
20 *United States wireless subscribership.*

21 (2) *Over 90 percent of households receive their*
22 *broadband services through either cable or digital sub-*
23 *scriber line (DSL) service, and most cable and DSL*
24 *providers are heavily concentrated within their geo-*
25 *graphic markets.*

1 (3) *Under the Omnibus Budget and Reconcili-*
2 *ation Act of 1993, Congress tasked the Federal Com-*
3 *munications Commission to promote economic oppor-*
4 *tunity by disseminating wireless communications li-*
5 *censes among a wide variety of applicants, including*
6 *small businesses and rural telephone companies.*

7 (4) *Upcoming auctions for the returned analog*
8 *broadcast spectrum in the 700 megahertz band that*
9 *will be cleared following the transition from analog to*
10 *digital broadcast television and Advanced Wireless*
11 *Services (AWS) in the 1710–1755 megahertz and*
12 *2110–2155 megahertz bands will likely be the last re-*
13 *allocation opportunities for commercial wireless com-*
14 *munications services and wireless broadband services*
15 *in the foreseeable future.*

16 (5) *In the near term, wireless broadband presents*
17 *the most promising opportunity to provide a third*
18 *option (other than cable modem or DSL service) for*
19 *broadband Internet access for most consumers, and*
20 *the spectrum in the 700 megahertz band is considered*
21 *“beachfront” property by telecommunications carriers*
22 *because wireless signals at this frequency range pass*
23 *easily through buildings, trees, and other interference.*

24 (6) *The 700 megahertz band offers a historic op-*
25 *portunity to provide the equivalent of a “third wire”*

1 *into the home – an alternative to telephone or cable*
2 *broadband access that will create new competition*
3 *and incentives for new entrants, innovation, and*
4 *broader service offerings.*

5 *(b) SENSE OF THE CONGRESS.—It is the sense of the*
6 *Congress that the Federal Communications Commission*
7 *should disseminate wireless communications licenses con-*
8 *sistent with the findings in subsection (a) and do so uti-*
9 *lizing its existing authority under section 309(j) of the*
10 *Communications Act of 1934, which requires the Commis-*
11 *sion to promote the following objectives:*

12 *(1) the development and rapid deployment of*
13 *new technologies, products, and services for the benefit*
14 *of the public, including those residing in rural areas,*
15 *without administrative or judicial delays;*

16 *(2) promoting economic opportunity and com-*
17 *petition and ensuring that new and innovative tech-*
18 *nologies are readily accessible to the American people*
19 *by avoiding excessive concentration of licenses and by*
20 *disseminating licenses among a wide variety of appli-*
21 *cants, including small businesses and rural telephone*
22 *companies;*

23 *(3) recovery for the public of a portion of the*
24 *value of the public spectrum resource made available*
25 *for commercial use and avoidance of unjust enrich-*

1 *ment through the methods employed to award uses of*
 2 *that resource; and*

3 *(4) efficient and intensive use of the electro-*
 4 *magnetic spectrum.*

5 **SEC. 3413. BAND PLAN REVISION REQUIRED.**

6 *(a) PROCEEDING REQUIRED.—The Federal Commu-*
 7 *nications Commission shall commence a proceeding no later*
 8 *than June 1, 2006, to reevaluate the band plan for the auc-*
 9 *tion of the unauctioned portions of the lower 700 megahertz*
 10 *band (currently designated as Blocks A, B, and E).*

11 *(b) RECONFIGURATION REQUIRED.—The Federal*
 12 *Communications Commission shall reconfigure the band*
 13 *plan to license spectrum for Block B of such portion accord-*
 14 *ing to Cellular Market Areas (i.e., Metropolitan Statistical*
 15 *Areas (“MSAs”) and Rural Service Areas (“RSAs”)) to fa-*
 16 *cilitate the offering of competitive wireless services by re-*
 17 *gional and smaller wireless carriers.*

18 **TITLE IV—COMMITTEE ON**
 19 **FINANCIAL SERVICES**

20 **SECTION 4000. TABLE OF CONTENTS.**

21 *The table of contents for this title is as follows:*

Sec. 4000. Table of contents.

Subtitle A—Deposit Insurance Reform

Sec. 4001. Short title.

Sec. 4002. Merging the BIF and SAIF.

Sec. 4003. Increase in deposit insurance coverage.

*Sec. 4004. Setting assessments and repeal of special rules relating to minimum
 assessments and free deposit insurance.*

Sec. 4005. Replacement of fixed designated reserve ratio with reserve range.

Sec. 4006. *Requirements applicable to the risk-based assessment system.*

Sec. 4007. *Refunds, dividends, and credits from Deposit Insurance Fund.*

Sec. 4008. *Deposit Insurance Fund restoration plans.*

Sec. 4009. *Regulations required.*

Sec. 4010. *Studies of FDIC structure and expenses and certain activities and further possible changes to deposit insurance system.*

Sec. 4011. *Bi-annual FDIC survey and report on increasing the deposit base by encouraging use of depository institutions by the unbanked.*

Sec. 4012. *Technical and conforming amendments to the Federal Deposit Insurance Act relating to the merger of the BIF and SAIF.*

Sec. 4013. *Other technical and conforming amendments relating to the merger of the BIF and SAIF.*

Subtitle B—FHA Asset Disposition

Sec. 4101. *Short title.*

Sec. 4102. *Definitions.*

Sec. 4103. *Appropriated funds requirement for below market sales.*

Sec. 4104. *Up-front grants.*

1 ***Subtitle A—Deposit Insurance***
 2 ***Reform***

3 ***SEC. 4001. SHORT TITLE.***

4 *This subtitle may be cited as the “Federal Deposit In-*
 5 *urance Reform Act of 2005”.*

6 ***SEC. 4002. MERGING THE BIF AND SAIF.***

7 *(a) IN GENERAL.—*

8 *(1) MERGER.—The Bank Insurance Fund and*
 9 *the Savings Association Insurance Fund shall be*
 10 *merged into the Deposit Insurance Fund.*

11 *(2) DISPOSITION OF ASSETS AND LIABILITIES.—*

12 *All assets and liabilities of the Bank Insurance Fund*
 13 *and the Savings Association Insurance Fund shall be*
 14 *transferred to the Deposit Insurance Fund.*

15 *(3) NO SEPARATE EXISTENCE.—The separate ex-*

16 *istence of the Bank Insurance Fund and the Savings*

1 *Association Insurance Fund shall cease on the effec-*
 2 *tive date of the merger thereof under this section.*

3 *(b) REPEAL OF OUTDATED MERGER PROVISION.—Sec-*
 4 *tion 2704 of the Deposit Insurance Funds Act of 1996 (12*
 5 *U.S.C. 1821 note) is repealed.*

6 *(c) EFFECTIVE DATE.—This section shall take effect*
 7 *on the first day of the first calendar quarter that begins*
 8 *after the end of the 90-day period beginning on the date*
 9 *of the enactment of this Act.*

10 **SEC. 4003. INCREASE IN DEPOSIT INSURANCE COVERAGE.**

11 *(a) IN GENERAL.—Section 11(a)(1) of the Federal De-*
 12 *posit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—*

13 *(1) by striking subparagraph (B) and inserting*
 14 *the following new subparagraph:*

15 *“(B) NET AMOUNT OF INSURED DEPOSIT.—*

16 *The net amount due to any depositor at an in-*
 17 *sured depository institution shall not exceed the*
 18 *standard maximum deposit insurance amount as*
 19 *determined in accordance with subparagraphs*
 20 *(C), (D), (E) and (F) and paragraph (3).”;* and

21 *(2) by adding at the end the following new sub-*
 22 *paragraphs:*

23 *“(E) STANDARD MAXIMUM DEPOSIT INSUR-*
 24 *ANCE AMOUNT DEFINED.—For purposes of this*

1 Act, the term ‘standard maximum deposit insur-
2 ance amount’ means—

3 “(i) until the effective date of final reg-
4 ulations prescribed pursuant to section
5 4009(a)(2) of the Federal Deposit Insurance
6 Reform Act of 2005, \$100,000; and

7 “(ii) on and after such effective date,
8 \$130,000, adjusted as provided under sub-
9 paragraph (F).

10 “(F) INFLATION ADJUSTMENT.—

11 “(i) IN GENERAL.—By April 1 of
12 2007, and the 1st day of each subsequent 5-
13 year period, the Board of Directors and the
14 National Credit Union Administration
15 Board shall jointly prescribe the amount by
16 which the standard maximum deposit in-
17 surance amount and the standard max-
18 imum share insurance amount (as defined
19 in section 207(k) of the Federal Credit
20 Union Act) applicable to any depositor at
21 an insured depository institution shall be
22 increased by calculating the product of—

23 “(I) \$130,000; and

24 “(II) the ratio of the value of the
25 Personal Consumption Expenditures

1 *Chain-Type Index (or any successor*
2 *index thereto), published by the De-*
3 *partment of Commerce, as of December*
4 *31 of the year preceding the year in*
5 *which the adjustment is calculated*
6 *under this clause, to the value of such*
7 *index as of the date this subparagraph*
8 *takes effect.*

9 “(ii) *ROUNDING.*—*If the amount deter-*
10 *mined under clause (ii) for any period is*
11 *not a multiple of \$10,000, the amount so*
12 *determined shall be rounded to the nearest*
13 *\$10,000.*

14 “(iii) *PUBLICATION AND REPORT TO*
15 *THE CONGRESS.*—*Not later than April 5 of*
16 *any calendar year in which an adjustment*
17 *is required to be calculated under clause (i)*
18 *to the standard maximum deposit insurance*
19 *amount and the standard maximum share*
20 *insurance amount under such clause, the*
21 *Board of Directors and the National Credit*
22 *Union Administration Board shall—*

23 “(I) *publish in the Federal Reg-*
24 *ister the standard maximum deposit*
25 *insurance amount, the standard max-*

1 *imum share insurance amount, and*
 2 *the amount of coverage under para-*
 3 *graph (3)(A) and section 207(k)(3) of*
 4 *the Federal Credit Union Act, as so*
 5 *calculated; and*

6 *“(II) jointly submit a report to*
 7 *the Congress containing the amounts*
 8 *described in subclause (I).*

9 *“(iv) 6-MONTH IMPLEMENTATION PE-*
 10 *RIOD.—Unless an Act of Congress enacted*
 11 *before July 1 of the calendar year in which*
 12 *an adjustment is required to be calculated*
 13 *under clause (i) provides otherwise, the in-*
 14 *crease in the standard maximum deposit*
 15 *insurance amount and the standard max-*
 16 *imum share insurance amount shall take ef-*
 17 *fect on January 1 of the year immediately*
 18 *succeeding such calendar year.”.*

19 *(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT*
 20 *PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal De-*
 21 *posit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended*
 22 *to read as follows:*

23 *“(D) COVERAGE FOR CERTAIN EMPLOYEE*
 24 *BENEFIT PLAN DEPOSITS.—*

1 “(i) *PASS-THROUGH INSURANCE.*—*The*
2 *Corporation shall provide pass-through de-*
3 *posit insurance for the deposits of any em-*
4 *ployee benefit plan.*

5 “(ii) *PROHIBITION ON ACCEPTANCE OF*
6 *BENEFIT PLAN DEPOSITS.*—*An insured de-*
7 *pository institution that is not well capital-*
8 *ized or adequately capitalized may not ac-*
9 *cept employee benefit plan deposits.*

10 “(iii) *DEFINITIONS.*—*For purposes of*
11 *this subparagraph, the following definitions*
12 *shall apply:*

13 “(I) *CAPITAL STANDARDS.*—*The*
14 *terms ‘well capitalized’ and ‘ade-*
15 *quately capitalized’ have the same*
16 *meanings as in section 38.*

17 “(II) *EMPLOYEE BENEFIT*
18 *PLAN.*—*The term ‘employee benefit*
19 *plan’ has the same meaning as in*
20 *paragraph (8)(B)(ii), and includes any*
21 *eligible deferred compensation plan de-*
22 *scribed in section 457 of the Internal*
23 *Revenue Code of 1986.*

24 “(III) *PASS-THROUGH DEPOSIT*
25 *INSURANCE.*—*The term ‘pass-through*

1 *deposit insurance’ means, with respect*
 2 *to an employee benefit plan, deposit*
 3 *insurance coverage provided on a pro*
 4 *rata basis to the participants in the*
 5 *plan, in accordance with the interest of*
 6 *each participant.”.*

7 *(c) DOUBLING OF DEPOSIT INSURANCE FOR CERTAIN*
 8 *RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Fed-*
 9 *eral Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is*
 10 *amended by striking “\$100,000” and inserting “2 times the*
 11 *standard maximum deposit insurance amount (as deter-*
 12 *mined under paragraph (1))”.*

13 *(d) INCREASED INSURANCE COVERAGE FOR MUNIC-*
 14 *IPAL DEPOSITS.—Section 11(a)(2) of the Federal Deposit*
 15 *Insurance Act (12 U.S.C. 1821(a)(2)) is amended—*

16 *(1) in subparagraph (A)—*

17 *(A) by moving the margins of clauses (i)*
 18 *through (v) 4 ems to the right;*

19 *(B) by striking, in the matter following*
 20 *clause (v), “such depositor shall” and all that*
 21 *follows through the period; and*

22 *(C) by striking the semicolon at the end of*
 23 *clause (v) and inserting a period;*

1 (2) by striking “(2)(A) Notwithstanding” and all
2 that follows through “a depositor who is—” and in-
3 serting the following:

4 “(2) MUNICIPAL DEPOSITORS.—

5 “(A) IN GENERAL.—Notwithstanding any
6 limitation in this Act or in any other provision
7 of law relating to the amount of deposit insur-
8 ance available to any 1 depositor—

9 “(i) a municipal depositor shall, for
10 the purpose of determining the amount of
11 insured deposits under this subsection, be
12 deemed to be a depositor separate and dis-
13 tinct from any other officer, employee, or
14 agent of the United States or any public
15 unit referred to in subparagraph (E); and

16 “(ii) except as provided in subpara-
17 graph (B), the deposits of a municipal de-
18 positor shall be insured in an amount equal
19 to the standard maximum deposit insurance
20 amount (as determined under paragraph
21 (1)).

22 “(B) IN-STATE MUNICIPAL DEPOSITORS.—

23 In the case of the deposits of an in-State munic-
24 ipal depositor described in clause (ii), (iii), (iv),
25 or (v) of subparagraph (E) at an insured deposi-

1 *tory institution, such deposits shall be insured in*
 2 *an amount not to exceed the lesser of—*

3 *“(i) \$2,000,000; or*

4 *“(ii) the sum of the standard max-*
 5 *imum deposit insurance amount and 80*
 6 *percent of the amount of any deposits in ex-*
 7 *cess of the standard maximum deposit in-*
 8 *surance amount.*

9 *“(C) MUNICIPAL DEPOSIT PARITY.—No*
 10 *State may deny to insured depository institu-*
 11 *tions within its jurisdiction the authority to ac-*
 12 *cept deposits insured under this paragraph, or*
 13 *prohibit the making of such deposits in such in-*
 14 *stitutions by any in-State municipal depositor.*

15 *“(D) IN-STATE MUNICIPAL DEPOSITOR DE-*
 16 *FINED.—For purposes of this paragraph, the*
 17 *term ‘in-State municipal depositor’ means a mu-*
 18 *nicipal depositor that is located in the same*
 19 *State as the office or branch of the insured de-*
 20 *pository institution at which the deposits of that*
 21 *depositor are held.*

22 *“(E) MUNICIPAL DEPOSITOR.—In this*
 23 *paragraph, the term ‘municipal depositor’ means*
 24 *a depositor that is—”;*

1 (3) by striking “(B) *The*” and inserting the fol-
2 *lowing*:

3 “(F) *AUTHORITY TO LIMIT DEPOSITS.—*
4 *The*”; and

5 (4) by striking “*depositor referred to in subpara-*
6 *graph (A) of this paragraph*” each place such term
7 *appears and inserting “municipal depositor”.*

8 (e) *TECHNICAL AND CONFORMING AMENDMENT RE-*
9 *LATING TO INSURANCE OF TRUST FUNDS.—Paragraphs (1)*
10 *and (3) of section 7(i) of the Federal Deposit Insurance Act*
11 *(12 U.S.C. 1817(i)) are each amended by striking*
12 *“\$100,000” and inserting “the standard maximum deposit*
13 *insurance amount (as determined under section 11(a)(1))”.*

14 (f) *OTHER TECHNICAL AND CONFORMING AMEND-*
15 *MENTS.—*

16 (1) *Section 11(m)(6) of the Federal Deposit In-*
17 *surance Act (12 U.S.C. 1821(m)(6)) is amended by*
18 *striking “\$100,000” and inserting “an amount equal*
19 *to the standard maximum deposit insurance*
20 *amount”.*

21 (2) *Subsection (a) of section 18 of the Federal*
22 *Deposit Insurance Act (12 U.S.C. 1828(a)) is amend-*
23 *ed to read as follows:*

24 “(a) *INSURANCE LOGO.—*

25 “(1) *INSURED DEPOSITORY INSTITUTIONS.—*

1 “(A) *IN GENERAL.*—*Each insured deposi-*
2 *tory institution shall display at each place of*
3 *business maintained by that institution a sign*
4 *or signs relating to the insurance of the deposits*
5 *of the institution, in accordance with regulations*
6 *to be prescribed by the Corporation.*

7 “(B) *STATEMENT TO BE INCLUDED.*—*Each*
8 *sign required under subparagraph (A) shall in-*
9 *clude a statement that insured deposits are*
10 *backed by the full faith and credit of the United*
11 *States Government.*

12 “(2) *REGULATIONS.*—*The Corporation shall pre-*
13 *scribe regulations to carry out this subsection, includ-*
14 *ing regulations governing the substance of signs re-*
15 *quired by paragraph (1) and the manner of display*
16 *or use of such signs.*

17 “(3) *PENALTIES.*—*For each day that an insured*
18 *depository institution continues to violate this sub-*
19 *section or any regulation issued under this subsection,*
20 *it shall be subject to a penalty of not more than \$100,*
21 *which the Corporation may recover for its use.”.*

22 (3) *Section 43(d) of the Federal Deposit Insur-*
23 *ance Act (12 U.S.C. 1831t(d)) is amended by striking*
24 *“\$100,000” and inserting “an amount equal to the*
25 *standard maximum deposit insurance amount”.*

1 (4) *Section 6 of the International Banking Act*
 2 *of 1978 (12 U.S.C. 3104) is amended—*

3 (A) *by striking “\$100,000” each place such*
 4 *term appears and inserting “an amount equal to*
 5 *the standard maximum deposit insurance*
 6 *amount”;* and

7 (B) *by adding at the end the following new*
 8 *subsection:*

9 “(e) *STANDARD MAXIMUM DEPOSIT INSURANCE*
 10 *AMOUNT DEFINED.—For purposes of this section, the term*
 11 *‘standard maximum deposit insurance amount’ means the*
 12 *amount of the maximum amount of deposit insurance as*
 13 *determined under section 11(a)(1) of the Federal Deposit*
 14 *Insurance Act.”.*

15 (g) *CONFORMING CHANGE TO CREDIT UNION SHARE*
 16 *INSURANCE FUND.—*

17 (1) *IN GENERAL.—Section 207(k) of the Federal*
 18 *Credit Union Act (12 U.S.C. 1787(k)) is amended—*

19 (A) *by striking “(k)(1)” and all that follows*
 20 *through the end of paragraph (1) and inserting*
 21 *the following:*

22 “(k) *INSURED AMOUNTS PAYABLE.—*

23 (1) *NET INSURED AMOUNT.—*

24 (A) *IN GENERAL.—Subject to the provi-*
 25 *sions of paragraph (2), the net amount of share*

1 *insurance payable to any member at an insured*
2 *credit union shall not exceed the total amount of*
3 *the shares or deposits in the name of the member*
4 *(after deducting offsets), less any part thereof*
5 *which is in excess of the standard maximum*
6 *share insurance amount, as determined in ac-*
7 *cordance with this paragraph and paragraphs*
8 *(5) and (6), and consistently with actions taken*
9 *by the Federal Deposit Insurance Corporation*
10 *under section 11(a) of the Federal Deposit Insur-*
11 *ance Act.*

12 “(B) *AGGREGATION.*—*Determination of the*
13 *net amount of share insurance under subpara-*
14 *graph (A), shall be in accordance with such regu-*
15 *lations as the Board may prescribe, and, in de-*
16 *termining the amount payable to any member,*
17 *there shall be added together all accounts in the*
18 *credit union maintained by that member for that*
19 *member’s own benefit, either in the member’s*
20 *own name or in the names of others.*

21 “(C) *AUTHORITY TO DEFINE THE EXTENT*
22 *OF COVERAGE.*—*The Board may define, with*
23 *such classifications and exceptions as it may*
24 *prescribe, the extent of the share insurance cov-*
25 *erage provided for member accounts, including*

1 *member accounts in the name of a minor, in*
 2 *trust, or in joint tenancy.”;*

3 *(B) in paragraph (2)—*

4 *(i) in subparagraph (A)—*

5 *(I) in clauses (i) through (v), by*
 6 *moving the margins 4 ems to the right;*

7 *(II) in the matter following clause*
 8 *(v), by striking “his account” and all*
 9 *that follows through the period; and*

10 *(III) by striking the semicolon at*
 11 *the end of clause (v) and inserting a*
 12 *period;*

13 *(ii) by striking “(2)(A) Notwith-*
 14 *standing” and all that follows through “a*
 15 *depositor or member who is—” and insert-*
 16 *ing the following:*

17 “(2) *MUNICIPAL DEPOSITORS OR MEMBERS.—*

18 “(A) *IN GENERAL.—Notwithstanding any*
 19 *limitation in this Act or in any other provision*
 20 *of law relating to the amount of insurance avail-*
 21 *able to any 1 depositor or member, deposits or*
 22 *shares of a municipal depositor or member shall*
 23 *be insured in an amount equal to the standard*
 24 *maximum share insurance amount (as deter-*

1 *mined under paragraph (5)), except as provided*
2 *in subparagraph (B).*

3 “(B) *IN-STATE MUNICIPAL DEPOSITORS.—*
4 *In the case of the deposits of an in-State munic-*
5 *ipal depositor described in clause (ii), (iii), (iv),*
6 *or (v) of subparagraph (E) at an insured credit*
7 *union, such deposits shall be insured in an*
8 *amount equal to the lesser of—*

9 “(i) \$2,000,000; or

10 “(ii) *the sum of the standard max-*
11 *imum deposit insurance amount and 80*
12 *percent of the amount of any deposits in ex-*
13 *cess of the standard maximum deposit in-*
14 *surance amount.*

15 “(C) *RULE OF CONSTRUCTION.—No provi-*
16 *sion of this paragraph shall be construed as au-*
17 *thorizing an insured credit union to accept the*
18 *deposits of a municipal depositor in an amount*
19 *greater than such credit union is authorized to*
20 *accept under any other provision of Federal or*
21 *State law.*

22 “(D) *IN-STATE MUNICIPAL DEPOSITOR DE-*
23 *FINED.—For purposes of this paragraph, the*
24 *term ‘in-State municipal depositor’ means a mu-*
25 *nicipal depositor that is located in the same*

1 *State as the office or branch of the insured credit*
 2 *union at which the deposits of that depositor are*
 3 *held.*

4 “(E) *MUNICIPAL DEPOSITOR.*—*In this*
 5 *paragraph, the term ‘municipal depositor’ means*
 6 *a depositor that is—”;*

7 *(iii) by striking “(B) The” and insert-*
 8 *ing the following:*

9 “(F) *AUTHORITY TO LIMIT DEPOSITS.*—
 10 *The”;* and

11 *(iv) by striking “depositor or member*
 12 *referred to in subparagraph (A)” and in-*
 13 *serting “municipal depositor or member”;*
 14 *and*

15 *(C) by adding at the end the following new*
 16 *paragraphs:*

17 “(4) *COVERAGE FOR CERTAIN EMPLOYEE BEN-*
 18 *EFIT PLAN DEPOSITS.*—

19 “(A) *PASS-THROUGH INSURANCE.*—*The Ad-*
 20 *ministration shall provide pass-through share in-*
 21 *surance for the deposits or shares of any em-*
 22 *ployee benefit plan.*

23 “(B) *PROHIBITION ON ACCEPTANCE OF DE-*
 24 *POSITS.*—*An insured credit union that is not*

1 *well capitalized or adequately capitalized may*
2 *not accept employee benefit plan deposits.*

3 “(C) *DEFINITIONS.*—*For purposes of this*
4 *paragraph, the following definitions shall apply:*

5 “(i) *CAPITAL STANDARDS.*—*The terms*
6 *‘well capitalized’ and ‘adequately capital-*
7 *ized’ have the same meanings as in section*
8 *216(c).*

9 “(ii) *EMPLOYEE BENEFIT PLAN.*—*The*
10 *term ‘employee benefit plan’—*

11 “(I) *has the meaning given to*
12 *such term in section 3(3) of the Em-*
13 *ployee Retirement Income Security Act*
14 *of 1974;*

15 “(II) *includes any plan described*
16 *in section 401(d) of the Internal Rev-*
17 *enue Code of 1986; and*

18 “(III) *includes any eligible de-*
19 *ferred compensation plan described in*
20 *section 457 of the Internal Revenue*
21 *Code of 1986.*

22 “(iii) *PASS-THROUGH SHARE INSUR-*
23 *ANCE.*—*The term ‘pass-through share insur-*
24 *ance’ means, with respect to an employee*
25 *benefit plan, insurance coverage provided*

1 *on a pro rata basis to the participants in*
2 *the plan, in accordance with the interest of*
3 *each participant.*

4 “(D) *RULE OF CONSTRUCTION.*—No provi-
5 *sion of this paragraph shall be construed as au-*
6 *thorizing an insured credit union to accept the*
7 *deposits of an employee benefit plan in an*
8 *amount greater than such credit union is author-*
9 *ized to accept under any other provision of Fed-*
10 *eral or State law.*

11 “(5) *STANDARD MAXIMUM SHARE INSURANCE*
12 *AMOUNT DEFINED.*—For purposes of this Act, the
13 *term ‘standard maximum share insurance amount’*
14 *means—*

15 “(A) *until the effective date of final regula-*
16 *tions prescribed pursuant to section 4009(a)(2)*
17 *of the Federal Deposit Insurance Reform Act of*
18 *2005, \$100,000; and*

19 “(B) *on and after such effective date,*
20 *\$130,000, adjusted as provided under section*
21 *11(a)(1)(F) of the Federal Deposit Insurance*
22 *Act.”.*

23 “(2) *DOUBLING OF SHARE INSURANCE FOR CER-*
24 *TAIN RETIREMENT ACCOUNTS.*—Section 207(k)(3) of
25 *the Federal Credit Union Act (12 U.S.C. 1787(k)(3))*

1 *is amended by striking “\$100,000” and inserting “2*
 2 *times the standard maximum share insurance*
 3 *amount (as determined under paragraph (1))”.*

4 *(h) EFFECTIVE DATE.—This section and the amend-*
 5 *ments made by this section shall take effect on the date the*
 6 *final regulations required under section 4009(a)(2) take ef-*
 7 *fect.*

8 **SEC. 4004. SETTING ASSESSMENTS AND REPEAL OF SPE-**
 9 **CIAL RULES RELATING TO MINIMUM ASSESS-**
 10 **MENTS AND FREE DEPOSIT INSURANCE.**

11 *(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the*
 12 *Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is*
 13 *amended—*

14 *(1) by striking subparagraphs (A) and (B) and*
 15 *inserting the following new subparagraphs:*

16 *“(A) IN GENERAL.—The Board of Directors*
 17 *shall set assessments for insured depository insti-*
 18 *tutions in such amounts as the Board of Direc-*
 19 *tors may determine to be necessary or appro-*
 20 *priate, subject to subparagraph (D).*

21 *“(B) FACTORS TO BE CONSIDERED.—In set-*
 22 *ting assessments under subparagraph (A), the*
 23 *Board of Directors shall consider the following*
 24 *factors:*

1 “(i) *The estimated operating expenses*
2 *of the Deposit Insurance Fund.*

3 “(ii) *The estimated case resolution ex-*
4 *penditures and income of the Deposit Insurance*
5 *Fund.*

6 “(iii) *The projected effects of the pay-*
7 *ment of assessments on the capital and*
8 *earnings of insured depository institutions.*

9 “(iv) *the risk factors and other factors*
10 *taken into account pursuant to paragraph*
11 *(1) under the risk-based assessment system,*
12 *including the requirement under such para-*
13 *graph to maintain a risk-based system.*

14 “(v) *Any other factors the Board of Di-*
15 *rectors may determine to be appropriate.”;*
16 *and*

17 (2) *by inserting after subparagraph (C) the fol-*
18 *lowing new subparagraph:*

19 “(D) *BASE RATE FOR ASSESSMENTS.—*

20 “(i) *IN GENERAL.—In setting assess-*
21 *ment rates pursuant to subparagraph (A),*
22 *the Board of Directors shall establish a base*
23 *rate of not more than 1 basis point (exclu-*
24 *sive of any credit or dividend) for those in-*
25 *sured depository institutions in the lowest-*

1 *risk category under the risk-based assess-*
 2 *ment system established pursuant to para-*
 3 *graph (1). No insured depository institution*
 4 *shall be barred from the lowest-risk category*
 5 *solely because of size.*

6 “(ii) *SUSPENSION.*—*Clause (i) shall*
 7 *not apply during any period in which the*
 8 *reserve ratio of the Deposit Insurance Fund*
 9 *is less than the amount which is equal to*
 10 *1.15 percent of the aggregate estimated in-*
 11 *sured deposits.”.*

12 (b) *ASSESSMENT RECORDKEEPING PERIOD SHORT-*
 13 *ENED.*—*Paragraph (5) of section 7(b) of the Federal De-*
 14 *posit Insurance Act (12 U.S.C. 1817(b)) is amended to read*
 15 *as follows:*

16 “(5) *DEPOSITORY INSTITUTION REQUIRED TO*
 17 *MAINTAIN ASSESSMENT-RELATED RECORDS.*—*Each*
 18 *insured depository institution shall maintain all*
 19 *records that the Corporation may require for*
 20 *verifying the correctness of any assessment on the in-*
 21 *sured depository institution under this subsection*
 22 *until the later of—*

23 “(A) *the end of the 3-year period beginning*
 24 *on the due date of the assessment; or*

1 “(B) in the case of a dispute between the in-
 2 sured depository institution and the Corporation
 3 with respect to such assessment, the date of a
 4 final determination of any such dispute.”.

5 (c) *INCREASE IN FEES FOR LATE ASSESSMENT PAY-*
 6 *MENTS.*—Subsection (h) of section 18 of the Federal Deposit
 7 *Insurance Act (12 U.S.C. 1828(h)) is amended to read as*
 8 *follows:*

9 “(h) *PENALTY FOR FAILURE TO TIMELY PAY ASSESS-*
 10 *MENTS.*—

11 “(1) *IN GENERAL.*—Subject to paragraph (3),
 12 any insured depository institution which fails or re-
 13 fuses to pay any assessment shall be subject to a pen-
 14 alty in an amount not more than 1 percent of the
 15 amount of the assessment due for each day that such
 16 violation continues.

17 “(2) *EXCEPTION IN CASE OF DISPUTE.*—Para-
 18 graph (1) shall not apply if—

19 “(A) the failure to pay an assessment is due
 20 to a dispute between the insured depository insti-
 21 tution and the Corporation over the amount of
 22 such assessment; and

23 “(B) the insured depository institution de-
 24 posits security satisfactory to the Corporation for
 25 payment upon final determination of the issue.

1 “(3) *SPECIAL RULE FOR SMALL ASSESSMENT*
2 *AMOUNTS.—If the amount of the assessment which an*
3 *insured depository institution fails or refuses to pay*
4 *is less than \$10,000 at the time of such failure or re-*
5 *fusals, the amount of any penalty to which such insti-*
6 *tution is subject under paragraph (1) shall not exceed*
7 *\$100 for each day that such violation continues.*

8 “(4) *AUTHORITY TO MODIFY OR REMIT PEN-*
9 *ALTY.—The Corporation, in the sole discretion of the*
10 *Corporation, may compromise, modify or remit any*
11 *penalty which the Corporation may assess or has al-*
12 *ready assessed under paragraph (1) upon a finding*
13 *that good cause prevented the timely payment of an*
14 *assessment.”.*

15 *(d) ASSESSMENTS FOR LIFELINE ACCOUNTS.—*

16 (1) *IN GENERAL.—Section 232 of the Federal*
17 *Deposit Insurance Corporation Improvement Act of*
18 *1991 (12 U.S.C. 1834) is amended by striking sub-*
19 *section (c).*

20 (2) *CLARIFICATION OF RATE APPLICABLE TO DE-*
21 *POSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.—Sec-*
22 *tion 7(b)(2)(H) of the Federal Deposit Insurance Act*
23 *(12 U.S.C. 1817(b)(2)(H)) is amended by striking “at*
24 *a rate determined in accordance with such Act” and*

1 *inserting “at 1/2 the assessment rate otherwise appli-*
2 *cable for such insured depository institution”.*

3 (3) *REGULATIONS.—Section 232(a)(1) of the*
4 *Federal Deposit Insurance Corporation Improvement*
5 *Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by*
6 *striking “Board of Governors of the Federal Reserve*
7 *System, and the”.*

8 (e) *TECHNICAL AND CONFORMING AMENDMENTS.—*

9 (1) *Paragraph (3) of section 7(a) of the Federal*
10 *Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is*
11 *amended by striking the 3d sentence and inserting the*
12 *following: “Such reports of condition shall be the*
13 *basis for the certified statements to be filed pursuant*
14 *to subsection (c).”.*

15 (2) *Subparagraphs (B)(ii) and (C) of section*
16 *7(b)(1) of the Federal Deposit Insurance Act (12*
17 *U.S.C. 1817(b)(1)) are each amended by striking*
18 *“semiannual” where such term appears in each such*
19 *subparagraph.*

20 (3) *Section 7(b)(2) of the Federal Deposit Insur-*
21 *ance Act (12 U.S.C. 1817(b)(2)) is amended—*

22 (A) *by striking subparagraphs (E), (F), and*
23 (G);

24 (B) *in subparagraph (C), by striking “semi-*
25 *annual”; and*

1 (C) by redesignating subparagraph (H) (as
2 amended by subsection (e)(2) of this section) as
3 subparagraph (E).

4 (4) Section 7(b) of the Federal Deposit Insurance
5 Act (12 U.S.C. 1817(b)) is amended by striking para-
6 graph (4) and redesignating paragraphs (5) (as
7 amended by subsection (b) of this section), (6), and
8 (7) as paragraphs (4), (5), and (6) respectively.

9 (5) Section 7(c) of the Federal Deposit Insurance
10 Act (12 U.S.C. 1817(c)) is amended—

11 (A) in paragraph (1)(A), by striking “semi-
12 annual”;

13 (B) in paragraph (2)(A), by striking “semi-
14 annual”; and

15 (C) in paragraph (3), by striking “semi-
16 annual period” and inserting “initial assessment
17 period”.

18 (6) Section 8(p) of the Federal Deposit Insur-
19 ance Act (12 U.S.C. 1818(p)) is amended by striking
20 “semiannual”.

21 (7) Section 8(q) of the Federal Deposit Insurance
22 Act (12 U.S.C. 1818(q)) is amended by striking
23 “semiannual period” and inserting “assessment pe-
24 riod”.

1 (8) *Section 13(c)(4)(G)(ii)(II) of the Federal De-*
2 *posit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II))*
3 *is amended by striking “semiannual period” and in-*
4 *serting “assessment period”.*

5 (9) *Section 232(a) of the Federal Deposit Insur-*
6 *ance Corporation Improvement Act of 1991 (12*
7 *U.S.C. 1834(a)) is amended—*

8 (A) *in the matter preceding subparagraph*
9 *(A) of paragraph (2), by striking “the Board*
10 *and”;*

11 (B) *in subparagraph (J) of paragraph (2),*
12 *by striking “the Board” and inserting “the Cor-*
13 *poration”;*

14 (C) *by striking subparagraph (A) of para-*
15 *graph (3) and inserting the following new sub-*
16 *paragraph:*

17 “(A) *CORPORATION.—The term ‘Corpora-*
18 *tion’ means the Federal Deposit Insurance Cor-*
19 *poration.”; and*

20 (D) *in subparagraph (C) of paragraph (3),*
21 *by striking “Board” and inserting “Corpora-*
22 *tion”.*

23 (f) *EFFECTIVE DATE.—This section and the amend-*
24 *ments made by this section shall take effect on the date that*

1 *the final regulations required under section 4009(a)(5) take*
 2 *effect.*

3 **SEC. 4005. REPLACEMENT OF FIXED DESIGNATED RESERVE**
 4 **RATIO WITH RESERVE RANGE.**

5 *(a) IN GENERAL.—Section 7(b)(3) of the Federal De-*
 6 *posit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to*
 7 *read as follows:*

8 *“(3) DESIGNATED RESERVE RATIO.—*

9 *“(A) ESTABLISHMENT.—*

10 *“(i) IN GENERAL.—The Board of Di-*
 11 *rectors shall designate, by regulation after*
 12 *notice and opportunity for comment, the re-*
 13 *serve ratio applicable with respect to the*
 14 *Deposit Insurance Fund.*

15 *“(ii) NOT LESS THAN ANNUAL REDE-*
 16 *TERMINATION.—A determination under*
 17 *clause (i) shall be made by the Board of Di-*
 18 *rectors at least before the beginning of each*
 19 *calendar year, for such calendar year, and*
 20 *at such other times as the Board of Direc-*
 21 *tors may determine to be appropriate.*

22 *“(B) RANGE.—The reserve ratio designated*
 23 *by the Board of Directors for any year—*

24 *“(i) may not exceed 1.4 percent of esti-*
 25 *mated insured deposits; and*

1 “(ii) may not be less than 1.15 percent
2 of estimated insured deposits.

3 “(C) *FACTORS.*—In designating a reserve
4 ratio for any year, the Board of Directors
5 shall—

6 “(i) take into account the risk of losses
7 to the Deposit Insurance Fund in such year
8 and future years, including historic experi-
9 ence and potential and estimated losses
10 from insured depository institutions;

11 “(ii) take into account economic condi-
12 tions generally affecting insured depository
13 institutions so as to allow the designated re-
14 serve ratio to increase during more favor-
15 able economic conditions and to decrease
16 during less favorable economic conditions,
17 notwithstanding the increased risks of loss
18 that may exist during such less favorable
19 conditions, as determined to be appropriate
20 by the Board of Directors;

21 “(iii) seek to prevent sharp swings in
22 the assessment rates for insured depository
23 institutions; and

24 “(iv) take into account such other fac-
25 tors as the Board of Directors may deter-

1 mine to be appropriate, consistent with the
2 requirements of this subparagraph.

3 “(D) *PUBLICATION OF PROPOSED CHANGE*
4 *IN RATIO.*—*In soliciting comment on any pro-*
5 *posed change in the designated reserve ratio in*
6 *accordance with subparagraph (A), the Board of*
7 *Directors shall include in the published proposal*
8 *a thorough analysis of the data and projections*
9 *on which the proposal is based.”.*

10 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
11 *tion 3(y) of the Federal Deposit Insurance Act (12 U.S.C.*
12 *1813(y)) is amended—*

13 (1) *by striking “(y) The term” and inserting(y)*
14 *Definitions Relating to Deposit Insurance Fund.—*

15 “*(1) DEPOSIT INSURANCE FUND.—The term”;*
16 *and*

17 (2) *by inserting after paragraph (1) (as so des-*
18 *ignated by paragraph (1) of this subsection) the fol-*
19 *lowing new paragraph:*

20 “*(2) DESIGNATED RESERVE RATIO.—The term*
21 *‘designated reserve ratio’ means the reserve ratio des-*
22 *ignated by the Board of Directors in accordance with*
23 *section 7(b)(3).”.*

24 (c) *EFFECTIVE DATE.*—*This section and the amend-*
25 *ments made by this section shall take effect on the date that*

1 *the final regulations required under section 4009(a)(1) take*
 2 *effect.*

3 **SEC. 4006. REQUIREMENTS APPLICABLE TO THE RISK-**
 4 **BASED ASSESSMENT SYSTEM.**

5 *Section 7(b)(1) of the Federal Deposit Insurance Act*
 6 *(12 U.S.C. 1817(b)(1)) is amended by adding at the end*
 7 *the following new subparagraphs:*

8 *“(E) INFORMATION CONCERNING RISK OF*
 9 *LOSS AND ECONOMIC CONDITIONS.—*

10 *“(i) SOURCES OF INFORMATION.—For*
 11 *purposes of determining risk of losses at in-*
 12 *sured depository institutions and economic*
 13 *conditions generally affecting depository in-*
 14 *stitutions, the Corporation shall collect in-*
 15 *formation, as appropriate, from all sources*
 16 *the Board of Directors considers appro-*
 17 *priate, such as reports of condition, inspec-*
 18 *tion reports, and other information from all*
 19 *Federal banking agencies, any information*
 20 *available from State bank supervisors, State*
 21 *insurance and securities regulators, the Se-*
 22 *curities and Exchange Commission (includ-*
 23 *ing information described in section 35),*
 24 *the Secretary of the Treasury, the Com-*
 25 *modity Futures Trading Commission, the*

1 *Farm Credit Administration, the Federal*
2 *Trade Commission, any Federal reserve*
3 *bank or Federal home loan bank, and other*
4 *regulators of financial institutions, and any*
5 *information available from credit rating en-*
6 *tities, and other private economic or busi-*
7 *ness analysts.*

8 “(ii) *CONSULTATION WITH FEDERAL*
9 *BANKING AGENCIES.—*

10 “(I) *IN GENERAL.—Except as pro-*
11 *vided in subclause (II), in assessing the*
12 *risk of loss to the Deposit Insurance*
13 *Fund with respect to any insured de-*
14 *pository institution, the Corporation*
15 *shall consult with the appropriate Fed-*
16 *eral banking agency of such institu-*
17 *tion.*

18 “(II) *TREATMENT ON AGGREGATE*
19 *BASIS.—In the case of insured deposi-*
20 *tory institutions that are well capital-*
21 *ized (as defined in section 38) and, in*
22 *the most recent examination, were*
23 *found to be well managed, the consulta-*
24 *tion under subclause (I) concerning the*
25 *assessment of the risk of loss posed by*

1 *such institutions may be made on an*
 2 *aggregate basis.*

3 “(iii) *RULE OF CONSTRUCTION.*—No
 4 *provision of this paragraph shall be con-*
 5 *strued as providing any new authority for*
 6 *the Corporation to require submission of in-*
 7 *formation by insured depository institutions*
 8 *to the Corporation.*

9 “(F) *MODIFICATIONS TO THE RISK-BASED*
 10 *ASSESSMENT SYSTEM ALLOWED ONLY AFTER NO-*
 11 *TICE AND COMMENT.*—*In revising or modifying*
 12 *the risk-based assessment system at any time*
 13 *after the date of the enactment of the Federal De-*
 14 *posit Insurance Reform Act of 2005, the Board*
 15 *of Directors may implement such revisions or*
 16 *modification in final form only after notice and*
 17 *opportunity for comment.”.*

18 **SEC. 4007. REFUNDS, DIVIDENDS, AND CREDITS FROM DE-**
 19 **POSIT INSURANCE FUND.**

20 (a) *IN GENERAL.*—*Subsection (e) of section 7 of the*
 21 *Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is*
 22 *amended to read as follows:*

23 “(e) *REFUNDS, DIVIDENDS, AND CREDITS.*—

24 “(1) *REFUNDS OF OVERPAYMENTS.*—*In the case*
 25 *of any payment of an assessment by an insured de-*

1 *pository institution in excess of the amount due to the*
 2 *Corporation, the Corporation may—*

3 *“(A) refund the amount of the excess pay-*
 4 *ment to the insured depository institution; or*

5 *“(B) credit such excess amount toward the*
 6 *payment of subsequent assessments until such*
 7 *credit is exhausted.*

8 *“(2) DIVIDENDS FROM EXCESS AMOUNTS IN DE-*
 9 *POSIT INSURANCE FUND.—*

10 *“(A) RESERVE RATIO IN EXCESS OF 1.4*
 11 *PERCENT OF ESTIMATED INSURED DEPOSITS.—*

12 *Whenever the reserve ratio of the Deposit Insur-*
 13 *ance Fund exceeds 1.4 percent of estimated in-*
 14 *sured deposits, the Corporation shall declare the*
 15 *amount in the Fund in excess of the amount re-*
 16 *quired to maintain the reserve ratio at 1.4 per-*
 17 *cent of estimated insured deposits, as dividends*
 18 *to be paid to insured depository institutions.*

19 *“(B) RESERVE RATIO EQUAL TO OR IN EX-*
 20 *CESS OF 1.35 PERCENT OF ESTIMATED INSURED*
 21 *DEPOSITS AND NOT MORE THAN 1.4 PERCENT.—*

22 *Whenever the reserve ratio of the Deposit Insur-*
 23 *ance Fund equals or exceeds 1.35 percent of esti-*
 24 *mated insured deposits and is not more than 1.4*
 25 *percent of such deposits, the Corporation shall*

1 *declare the amount in the Fund that is equal to*
2 *50 percent of the amount in excess of the amount*
3 *required to maintain the reserve ratio at 1.35*
4 *percent of the estimated insured deposits as divi-*
5 *dends to be paid to insured depository institu-*
6 *tions.*

7 “(C) *BASIS FOR DISTRIBUTION OF DIVI-*
8 *DENDS.—*

9 “(i) *IN GENERAL.—Solely for the pur-*
10 *poses of dividend distribution under this*
11 *paragraph and credit distribution under*
12 *paragraph (3)(B), the Corporation shall de-*
13 *termine each insured depository institu-*
14 *tion’s relative contribution to the Deposit*
15 *Insurance Fund (or any predecessor deposit*
16 *insurance fund) for calculating such insti-*
17 *tution’s share of any dividend or credit de-*
18 *clared under this paragraph or paragraph*
19 *(3)(B), taking into account the factors de-*
20 *scribed in clause (ii).*

21 “(ii) *FACTORS FOR DISTRIBUTION.—In*
22 *implementing this paragraph and para-*
23 *graph (3)(B) in accordance with regula-*
24 *tions, the Corporation shall take into ac-*
25 *count the following factors:*

1 “(I) *The ratio of the assessment*
2 *base of an insured depository institu-*
3 *tion (including any predecessor) on*
4 *December 31, 1996, to the assessment*
5 *base of all eligible insured depository*
6 *institutions on that date.*

7 “(II) *The total amount of assess-*
8 *ments paid on or after January 1,*
9 *1997, by an insured depository institu-*
10 *tion (including any predecessor) to the*
11 *Deposit Insurance Fund (and any*
12 *predecessor deposit insurance fund).*

13 “(III) *That portion of assessments*
14 *paid by an insured depository institu-*
15 *tion (including any predecessor) that*
16 *reflects higher levels of risk assumed by*
17 *such institution.*

18 “(IV) *Such other factors as the*
19 *Corporation may determine to be ap-*
20 *propriate.*

21 “(D) *NOTICE AND OPPORTUNITY FOR COM-*
22 *MENT.—The Corporation shall prescribe by regu-*
23 *lation, after notice and opportunity for com-*
24 *ment, the method for the calculation, declaration,*
25 *and payment of dividends under this paragraph.*

1 “(3) *CREDIT POOL.*—

2 “(A) *ONE-TIME CREDIT BASED ON TOTAL*
3 *ASSESSMENT BASE AT YEAR-END 1996.*—

4 “(i) *IN GENERAL.*—*Before the end of*
5 *the 270-day period beginning on the date of*
6 *the enactment of the Federal Deposit Insur-*
7 *ance Reform Act of 2005, the Board of Di-*
8 *rectors shall, by regulation, provide for a*
9 *credit to each eligible insured depository in-*
10 *stitution, based on the assessment base of*
11 *the institution (including any predecessor*
12 *institution) on December 31, 1996, as com-*
13 *pared to the combined aggregate assessment*
14 *base of all eligible insured depository insti-*
15 *tutions, taking into account such factors as*
16 *the Board of Directors may determine to be*
17 *appropriate.*

18 “(ii) *CREDIT LIMIT.*—*The aggregate*
19 *amount of credits available under clause (i)*
20 *to all eligible insured depository institu-*
21 *tions shall equal the amount that the Cor-*
22 *poration could collect if the Corporation im-*
23 *posed an assessment of 12 basis points on*
24 *the combined assessment base of the Bank*
25 *Insurance Fund and the Savings Associa-*

1 *tion Insurance Fund as of December 31,*
2 *2001.*

3 “(iii) *ELIGIBLE INSURED DEPOSITORY*
4 *INSTITUTION DEFINED.—For purposes of*
5 *this paragraph, the term ‘eligible insured*
6 *depository institution’ means any insured*
7 *depository institution that—*

8 *“(I) was in existence on December*
9 *31, 1996, and paid a deposit insurance*
10 *assessment prior to that date; or*

11 *“(II) is a successor to any insured*
12 *depository institution described in sub-*
13 *clause (I).*

14 “(iv) *APPLICATION OF CREDITS.—*

15 *“(I) IN GENERAL.—The amount of*
16 *a credit to any eligible insured depository*
17 *institution under this paragraph*
18 *shall be applied by the Corporation,*
19 *subject to subsection (b)(3)(E), to the*
20 *assessments imposed on such institu-*
21 *tion under subsection (b) that become*
22 *due for assessment periods beginning*
23 *after the effective date of regulations*
24 *prescribed under clause (i).*

1 “(II) *REGULATIONS.*—*The regula-*
2 *tions prescribed under clause (i) shall*
3 *establish the qualifications and proce-*
4 *dures governing the application of as-*
5 *essment credits pursuant to subclause*
6 *(I).*

7 “(v) *LIMITATION ON AMOUNT OF CRED-*
8 *IT FOR CERTAIN DEPOSITORY INSTITU-*
9 *TIONS.*—*In the case of an insured deposi-*
10 *tory institution that exhibits financial,*
11 *operational, or compliance weaknesses rang-*
12 *ing from moderately severe to unsatisfac-*
13 *tory, or is not adequately capitalized (as de-*
14 *finied in section 38) at the beginning of an*
15 *assessment period, the amount of any credit*
16 *allowed under this paragraph against the*
17 *assessment on that depository institution*
18 *for such period may not exceed the amount*
19 *calculated by applying to that depository*
20 *institution the average assessment rate on*
21 *all insured depository institutions for such*
22 *assessment period.*

23 “(vi) *PREDECESSOR DEFINED.*—*For*
24 *purposes of this paragraph, the term ‘prede-*
25 *cessor’, when used with respect to any in-*

1 *sured depository institution, includes any*
2 *other insured depository institution ac-*
3 *quired by or merged with such insured de-*
4 *pository institution.*

5 “(B) *ON-GOING CREDIT POOL.*—

6 “(i) *IN GENERAL.*—*In addition to the*
7 *credit provided pursuant to subparagraph*
8 *(A) and subject to the limitation contained*
9 *in clause (v) of such subparagraph, the Cor-*
10 *poration shall, by regulation, establish an*
11 *on-going system of credits to be applied*
12 *against future assessments under subsection*
13 *(b)(1) on the same basis as the dividends*
14 *provided under paragraph (2)(C).*

15 “(ii) *LIMITATION ON CREDITS UNDER*
16 *CERTAIN CIRCUMSTANCES.*—*No credits may*
17 *be awarded by the Corporation under this*
18 *subparagraph during any period in*
19 *which—*

20 “(I) *the reserve ratio of the De-*
21 *posit Insurance Fund is less than the*
22 *designated reserve ratio of such Fund;*
23 *or*

1 “(II) *the reserve ratio of the Fund*
2 *is less than 1.25 percent of the amount*
3 *of estimated insured deposits.*

4 “(iii) *CRITERIA FOR DETERMINA-*
5 *TION.—In determining the amounts of any*
6 *assessment credits under this subparagraph,*
7 *the Board of Directors shall take into ac-*
8 *count the factors for designating the reserve*
9 *ratio under subsection (b)(3) and the factors*
10 *for setting assessments under subsection*
11 *(b)(2)(B).*

12 “(4) *ADMINISTRATIVE REVIEW.—*

13 “(A) *IN GENERAL.—The regulations pre-*
14 *scribed under paragraph (2)(D) and subpara-*
15 *graphs (A) and (B) of paragraph (3) shall in-*
16 *clude provisions allowing an insured depository*
17 *institution a reasonable opportunity to challenge*
18 *administratively the amount of the credit or div-*
19 *idend determined under paragraph (2) or (3) for*
20 *such institution.*

21 “(B) *ADMINISTRATIVE REVIEW.—Any re-*
22 *view under subparagraph (A) of any determina-*
23 *tion of the Corporation under paragraph (2) or*
24 *(3) shall be final and not subject to judicial re-*
25 *view.”.*

1 (b) *DEFINITION OF RESERVE RATIO.*—Section 3(y) of
 2 *the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as*
 3 *amended by section 4005(b) of this subtitle) is amended by*
 4 *adding at the end the following new paragraph:*

5 “(3) *RESERVE RATIO.*—The term ‘reserve ratio’,
 6 *when used with regard to the Deposit Insurance Fund*
 7 *other than in connection with a reference to the des-*
 8 *ignated reserve ratio, means the ratio of the net worth*
 9 *of the Deposit Insurance Fund to the value of the ag-*
 10 *gregate estimated insured deposits.”.*

11 **SEC. 4008. DEPOSIT INSURANCE FUND RESTORATION**
 12 **PLANS.**

13 Section 7(b)(3) of the Federal Deposit Insurance Act
 14 (12 U.S.C. 1817(b)(3)) (as amended by section 4005(a) of
 15 this subtitle) is amended by adding at the end the following
 16 new subparagraph:

17 “(E) *DIF RESTORATION PLANS.*—

18 “(i) *IN GENERAL.*—Whenever—

19 “(I) *the Corporation projects that*
 20 *the reserve ratio of the Deposit Insur-*
 21 *ance Fund will, within 6 months of*
 22 *such determination, fall below the min-*
 23 *imum amount specified in subpara-*
 24 *graph (B)(i) for the designated reserve*
 25 *ratio; or*

1 “(II) *the reserve ratio of the De-*
2 *posit Insurance Fund actually falls*
3 *below the minimum amount specified*
4 *in subparagraph (B)(ii) for the des-*
5 *ignated reserve ratio without any de-*
6 *termination under subclause (I) having*
7 *been made,*

8 *the Corporation shall establish and imple-*
9 *ment a Deposit Insurance Fund restoration*
10 *plan within 90 days that meets the require-*
11 *ments of clause (ii) and such other condi-*
12 *tions as the Corporation determines to be*
13 *appropriate.*

14 “(ii) *REQUIREMENTS OF RESTORATION*
15 *PLAN.—A Deposit Insurance Fund restora-*
16 *tion plan meets the requirements of this*
17 *clause if the plan provides that the reserve*
18 *ratio of the Fund will meet or exceed the*
19 *minimum amount specified in subpara-*
20 *graph (B)(ii) for the designated reserve*
21 *ratio before the end of the 10-year period be-*
22 *ginning upon the implementation of the*
23 *plan.*

24 “(iii) *RESTRICTION ON ASSESSMENT*
25 *CREDITS.—As part of any restoration plan*

1 under this subparagraph, the Corporation
2 may elect to restrict the application of as-
3 sessment credits provided under subsection
4 (e)(3) for any period that the plan is in ef-
5 fect.

6 “(iv) *LIMITATION ON RESTRICTION.*—
7 Notwithstanding clause (iii), while any res-
8 toration plan under this subparagraph is in
9 effect, the Corporation shall apply credits
10 provided to an insured depository institu-
11 tion under subsection (e)(3) against any as-
12 sessment imposed on the institution for any
13 assessment period in an amount equal to
14 the lesser of—

15 “(I) the amount of the assessment;

16 or

17 “(II) the amount equal to 3 basis
18 points of the institution’s assessment
19 base.

20 “(v) *TRANSPARENCY.*—Not more than
21 30 days after the Corporation establishes
22 and implements a restoration plan under
23 clause (i), the Corporation shall publish in
24 the *Federal Register* a detailed analysis of

1 *the factors considered and the basis for the*
2 *actions taken with regard to the plan.”.*

3 **SEC. 4009. REGULATIONS REQUIRED.**

4 *(a) IN GENERAL.—Not later than 270 days after the*
5 *date of the enactment of this Act, the Board of Directors*
6 *of the Federal Deposit Insurance Corporation shall pre-*
7 *scribe final regulations, after notice and opportunity for*
8 *comment—*

9 *(1) designating the reserve ratio for the Deposit*
10 *Insurance Fund in accordance with section 7(b)(3) of*
11 *the Federal Deposit Insurance Act (as amended by*
12 *section 4005 of this subtitle);*

13 *(2) implementing increases in deposit insurance*
14 *coverage in accordance with the amendments made by*
15 *section 4003 of this subtitle;*

16 *(3) implementing the dividend requirement*
17 *under section 7(e)(2) of the Federal Deposit Insurance*
18 *Act (as amended by section 4007 of this subtitle);*

19 *(4) implementing the 1-time assessment credit to*
20 *certain insured depository institutions in accordance*
21 *with section 7(e)(3) of the Federal Deposit Insurance*
22 *Act, as amended by section 4007 of this subtitle, in-*
23 *cluding the qualifications and procedures under*
24 *which the Corporation would apply assessment cred-*
25 *its; and*

1 (5) *providing for assessments under section 7(b)*
2 *of the Federal Deposit Insurance Act, as amended by*
3 *this subtitle.*

4 (b) *RULE OF CONSTRUCTION.*—*No provision of this*
5 *subtitle or any amendment made by this subtitle shall be*
6 *construed as affecting the authority of the Corporation to*
7 *set or collect deposit insurance assessments before the effec-*
8 *tive date of the final regulations prescribed under subsection*
9 *(a).*

10 **SEC. 4010. STUDIES OF FDIC STRUCTURE AND EXPENSES**
11 **AND CERTAIN ACTIVITIES AND FURTHER**
12 **POSSIBLE CHANGES TO DEPOSIT INSURANCE**
13 **SYSTEM.**

14 (a) *STUDY BY COMPTROLLER GENERAL.*—

15 (1) *STUDY REQUIRED.*—*The Comptroller General*
16 *shall conduct a study of the following issues:*

17 (A) *The efficiency and effectiveness of the*
18 *administration of the prompt corrective action*
19 *program under section 38 of the Federal Deposit*
20 *Insurance Act by the Federal banking agencies*
21 *(as defined in section 3 of such Act), including*
22 *the degree of effectiveness of such agencies in*
23 *identifying troubled depository institutions and*
24 *taking effective action with respect to such insti-*

1 *tutions, and the degree of accuracy of the risk as-*
2 *sessments made by the Corporation.*

3 *(B) The appropriateness of the organiza-*
4 *tional structure of the Federal Deposit Insurance*
5 *Corporation for the mission of the Corporation*
6 *taking into account—*

7 *(i) the current size and complexity of*
8 *the business of insured depository institu-*
9 *tions (as such term is defined in section 3*
10 *of the Federal Deposit Insurance Act);*

11 *(ii) the extent to which the organiza-*
12 *tional structure contributes to or reduces*
13 *operational inefficiencies that increase oper-*
14 *ational costs; and*

15 *(iii) the effectiveness of internal con-*
16 *trols.*

17 *(2) REPORT TO THE CONGRESS.—The Comp-*
18 *troller General shall submit a report to the Congress*
19 *before the end of the 1-year period beginning on the*
20 *date of the enactment of this Act containing the find-*
21 *ings and conclusions of the Comptroller General with*
22 *respect to the study required under paragraph (1) to-*
23 *gether with such recommendations for legislative or*
24 *administrative action as the Comptroller General*
25 *may determine to be appropriate.*

1 **(b) STUDY OF FURTHER POSSIBLE CHANGES TO DE-**
2 **POSIT INSURANCE SYSTEM.—**

3 **(1) STUDY REQUIRED.—***The Board of Directors*
4 *of the Federal Deposit Insurance Corporation and the*
5 *National Credit Union Administration Board shall*
6 *each conduct a study of the following:*

7 **(A)** *The feasibility of establishing a vol-*
8 *untary deposit insurance system for deposits in*
9 *excess of the maximum amount of deposit insur-*
10 *ance for any depositor and the potential benefits*
11 *and the potential adverse consequences that may*
12 *result from the establishment of any such system.*

13 **(B)** *The feasibility of privatizing all deposit*
14 *insurance at insured depository institutions and*
15 *insured credit unions.*

16 **(2) REPORT.—***Before the end of the 1-year pe-*
17 *riod beginning on the date of the enactment of this*
18 *Act, the Board of Directors of the Federal Deposit In-*
19 *surance Corporation and the National Credit Union*
20 *Administration Board shall each submit a report to*
21 *the Congress on the study required under paragraph*
22 *(1) containing the findings and conclusions of the re-*
23 *porting agency together with such recommendations*
24 *for legislative or administrative changes as the agency*
25 *may determine to be appropriate.*

1 (c) *STUDY REGARDING APPROPRIATE DEPOSIT BASE*
2 *IN DESIGNATING RESERVE RATIO.*—

3 (1) *STUDY REQUIRED.*—*The Federal Deposit In-*
4 *surance Corporation shall conduct a study of the fea-*
5 *sibility of using actual domestic deposits rather than*
6 *estimated insured deposits in calculating the reserve*
7 *ratio of the Deposit Insurance Fund and designating*
8 *a reserve ratio for such Fund.*

9 (2) *REPORT.*—*The Federal Deposit Insurance*
10 *Corporation shall submit a report to the Congress be-*
11 *fore the end of the 1-year period beginning on the*
12 *date of the enactment of this Act containing the find-*
13 *ings and conclusions of the Corporation with respect*
14 *to the study required under paragraph (1) together*
15 *with such recommendations for legislative or adminis-*
16 *trative action as the Board of Directors of the Cor-*
17 *poration may determine to be appropriate.*

18 (d) *STUDY OF RESERVE METHODOLOGY AND AC-*
19 *COUNTING FOR LOSS.*—

20 (1) *STUDY REQUIRED.*—*The Federal Deposit In-*
21 *surance Corporation shall conduct a study of the re-*
22 *serve methodology and loss accounting used by the*
23 *Corporation during the period beginning on January*
24 *1, 1992, and ending December 31, 2004, with respect*
25 *to insured depository institutions in a troubled condi-*

1 *tion (as defined in the regulations prescribed pursu-*
2 *ant to section 32(f) of the Federal Deposit Insurance*
3 *Act). The Corporation shall obtain comments on the*
4 *design of the study from the Comptroller General.*

5 (2) *FACTORS TO BE INCLUDED.—In conducting*
6 *the study pursuant to paragraph (1), the Federal De-*
7 *posit Insurance Corporation shall—*

8 (A) *consider the overall effectiveness and ac-*
9 *curacy of the methodology used by the Corpora-*
10 *tion for establishing and maintaining reserves*
11 *and estimating and accounting for losses at in-*
12 *sured depository institutions, during the period*
13 *described in such paragraph;*

14 (B) *consider the appropriateness and reli-*
15 *ability of information and criteria used by the*
16 *Corporation in determining—*

17 (i) *whether an insured depository in-*
18 *stitution was in a troubled condition; and*

19 (ii) *the amount of any loss anticipated*
20 *at such institution;*

21 (C) *analyze the actual historical loss experi-*
22 *ence over the period described in paragraph (1)*
23 *and the causes of the exceptionally high rate of*
24 *losses experienced by the Corporation in the final*
25 *3 years of that period; and*

1 (D) rate the efforts of the Corporation to re-
 2 duce losses in such 3-year period to minimally
 3 acceptable levels and to historical levels.

4 (3) *REPORT REQUIRED.*—The Board of Directors
 5 of the Federal Deposit Insurance Corporation shall
 6 submit a report to the Congress before the end of the
 7 6-month period beginning on the date of the enact-
 8 ment of this Act, containing the findings and conclu-
 9 sions of the Corporation with respect to the study re-
 10 quired under paragraph (1), together with such rec-
 11 ommendations for legislative or administrative action
 12 as the Board of Directors may determine to be appro-
 13 priate. Before submitting the report to Congress, the
 14 Board of Directors shall provide a draft of the report
 15 to the Comptroller General for comment.

16 **SEC. 4011. BI-ANNUAL FDIC SURVEY AND REPORT ON IN-**
 17 **CREASING THE DEPOSIT BASE BY ENCOUR-**
 18 **AGING USE OF DEPOSITORY INSTITUTIONS**
 19 **BY THE UNBANKED.**

20 The Federal Deposit Insurance Act (12 U.S.C. 1811
 21 *et seq.*) is amended by adding at the end the following new
 22 section:

1 **“SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON EN-**
2 **COURAGING USE OF DEPOSITORY INSTITU-**
3 **TIONS BY THE UNBANKED.**

4 “(a) *SURVEY REQUIRED.*—

5 “(1) *IN GENERAL.*—*The Corporation shall con-*
6 *duct a bi-annual survey on efforts by insured deposi-*
7 *tory institutions to bring those individuals and fami-*
8 *lies who have rarely, if ever, held a checking account,*
9 *a savings account or other type of transaction or*
10 *check cashing account at an insured depository insti-*
11 *tution (hereafter in this section referred to as the*
12 *‘unbanked’) into the conventional finance system.*

13 “(2) *FACTORS AND QUESTIONS TO CONSIDER.*—
14 *In conducting the survey, the Corporation shall take*
15 *the following factors and questions into account:*

16 “(A) *To what extent do insured depository*
17 *institutions promote financial education and fi-*
18 *nancial literacy outreach?*

19 “(B) *Which financial education efforts ap-*
20 *pear to be the most effective in bringing*
21 *‘unbanked’ individuals and families into the*
22 *conventional finance system?*

23 “(C) *What efforts are insured institutions*
24 *making at converting ‘unbanked’ money order,*
25 *wire transfer, and international remittance cus-*
26 *tomers into conventional account holders?*

1 “(D) What cultural, language and identi-
 2 fication issues as well as transaction costs ap-
 3 pear to most prevent ‘unbanked’ individuals
 4 from establishing conventional accounts?”

5 “(E) What is a fair estimate of the size and
 6 worth of the ‘unbanked’ market in the United
 7 States?”

8 “(b) *REPORTS.*—The Chairperson of the Board of Di-
 9 rectors shall submit a bi-annual report to the Committee
 10 on Financial Services of the House of Representatives and
 11 the Committee on Banking, Housing, and Urban Affairs
 12 of the Senate containing the Corporation’s findings and
 13 conclusions with respect to the survey conducted pursuant
 14 to subsection (a), together with such recommendations for
 15 legislative or administrative action as the Chairperson may
 16 determine to be appropriate.”

17 **SEC. 4012. TECHNICAL AND CONFORMING AMENDMENTS TO**
 18 **THE FEDERAL DEPOSIT INSURANCE ACT RE-**
 19 **LATING TO THE MERGER OF THE BIF AND**
 20 **SAIF.**

21 (a) *IN GENERAL.*—The Federal Deposit Insurance Act
 22 (12 U.S.C. 1811 et seq.) is amended—

23 (1) in section 3 (12 U.S.C. 1813)—

1 (A) by striking subparagraph (B) of sub-
2 section (a)(1) and inserting the following new
3 subparagraph:

4 “(B) includes any former savings associa-
5 tion.”; and

6 (B) by striking paragraph (1) of subsection
7 (y) (as so designated by section 4005(b) of this
8 subtitle) and inserting the following new para-
9 graph:

10 “(1) *DEPOSIT INSURANCE FUND*.—The term ‘*De-*
11 *posit Insurance Fund*’ means the *Deposit Insurance*
12 *Fund* established under section 11(a)(4).”;

13 (2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by
14 striking “the *Bank Insurance Fund* or the *Savings*
15 *Association Insurance Fund*,” and inserting “the *De-*
16 *posit Insurance Fund*,”;

17 (3) in section 5(c)(4), by striking “*deposit insur-*
18 *ance fund*” and inserting “*Deposit Insurance Fund*”;

19 (4) in section 5(d) (12 U.S.C. 1815(d)), by strik-
20 ing paragraphs (2) and (3) (and any funds resulting
21 from the application of such paragraph (2) prior to
22 its repeal shall be deposited into the general fund of
23 the *Deposit Insurance Fund*);

24 (5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

1 (A) in subparagraph (A), by striking “re-
2 serve ratios in the Bank Insurance Fund and the
3 Savings Association Insurance Fund as required
4 by section 7” and inserting “the reserve ratio of
5 the Deposit Insurance Fund”;

6 (B) by striking subparagraph (B) and in-
7 serting the following:

8 “(2) *FEE CREDITED TO THE DEPOSIT INSUR-*
9 *ANCE FUND.—The fee paid by the depository institu-*
10 *tion under paragraph (1) shall be credited to the De-*
11 *posit Insurance Fund.*”;

12 (C) by striking “(1) **UNINSURED INSTI-**
13 **TUTIONS.—**”; and

14 (D) by redesignating subparagraphs (A)
15 and (C) as paragraphs (1) and (3), respectively,
16 and moving the left margins 2 ems to the left;
17 (6) in section 5(e) (12 U.S.C. 1815(e))—

18 (A) in paragraph (5)(A), by striking “Bank
19 Insurance Fund or the Savings Association In-
20 surance Fund” and inserting “Deposit Insurance
21 Fund”;

22 (B) by striking paragraph (6); and

23 (C) by redesignating paragraphs (7), (8),
24 and (9) as paragraphs (6), (7), and (8), respec-
25 tively;

1 (7) in section 6(5) (12 U.S.C. 1816(5)), by strik-
2 ing “Bank Insurance Fund or the Savings Associa-
3 tion Insurance Fund” and inserting “Deposit Insur-
4 ance Fund”;

5 (8) in section 7(b) (12 U.S.C. 1817(b))—

6 (A) in paragraph (1)(C), by striking “de-
7 posit insurance fund” each place that term ap-
8 pears and inserting “Deposit Insurance Fund”;

9 (B) in paragraph (1)(D), by striking “each
10 deposit insurance fund” and inserting “the De-
11 posit Insurance Fund”; and

12 (C) in paragraph (5) (as so redesignated by
13 section 4004(e)(4) of this subtitle)—

14 (i) by striking “any such assessment”
15 and inserting “any such assessment is nec-
16 essary”;

17 (ii) by striking subparagraph (B);

18 (iii) in subparagraph (A)—

19 (I) by striking “(A) is nec-
20 essary—”;

21 (II) by striking “Bank Insurance
22 Fund members” and inserting “in-
23 sured depository institutions”; and

24 (III) by redesignating clauses (i),
25 (ii), and (iii) as subparagraphs (A),

1 (B), and (C), respectively, and moving
 2 the margins 2 ems to the left; and
 3 (iv) in subparagraph (C) (as so reded-
 4 ignated)—

5 (I) by inserting “that” before “the
 6 Corporation”; and

7 (II) by striking “; and” and in-
 8 serting a period;

9 (9) in section 7(j)(7)(F) (12 U.S.C.
 10 1817(j)(7)(F)), by striking “Bank Insurance Fund or
 11 the Savings Association Insurance Fund” and insert-
 12 ing “Deposit Insurance Fund”;

13 (10) in section 8(t)(2)(C) (12 U.S.C.
 14 1818(t)(2)(C)), by striking “deposit insurance fund”
 15 and inserting “Deposit Insurance Fund”;

16 (11) in section 11 (12 U.S.C. 1821)—

17 (A) by striking “deposit insurance fund”
 18 each place that term appears and inserting “De-
 19 posit Insurance Fund”;

20 (B) by striking paragraph (4) of subsection
 21 (a) and inserting the following new paragraph:

22 “(4) DEPOSIT INSURANCE FUND.—

23 “(A) ESTABLISHMENT.—There is estab-
 24 lished the Deposit Insurance Fund, which the
 25 Corporation shall—

1 “(i) maintain and administer;

2 “(ii) use to carry out its insurance
3 purposes, in the manner provided by this
4 subsection; and

5 “(iii) invest in accordance with section
6 13(a).

7 “(B) USES.—The Deposit Insurance Fund
8 shall be available to the Corporation for use with
9 respect to insured depository institutions the de-
10 posits of which are insured by the Deposit Insur-
11 ance Fund.

12 “(C) LIMITATION ON USE.—Notwith-
13 standing any provision of law other than section
14 13(c)(4)(G), the Deposit Insurance Fund shall
15 not be used in any manner to benefit any share-
16 holder or affiliate (other than an insured deposi-
17 tory institution that receives assistance in ac-
18 cordance with the provisions of this Act) of—

19 “(i) any insured depository institution
20 for which the Corporation has been ap-
21 pointed conservator or receiver, in connec-
22 tion with any type of resolution by the Cor-
23 poration;

24 “(ii) any other insured depository in-
25 stitution in default or in danger of default,

1 *in connection with any type of resolution*
2 *by the Corporation; or*

3 “(iii) *any insured depository institu-*
4 *tion, in connection with the provision of as-*
5 *istance under this section or section 13*
6 *with respect to such institution, except that*
7 *this clause shall not prohibit any assistance*
8 *to any insured depository institution that is*
9 *not in default, or that is not in danger of*
10 *default, that is acquiring (as defined in sec-*
11 *tion 13(f)(8)(B)) another insured depository*
12 *institution.*

13 “(D) *DEPOSITS.—All amounts assessed*
14 *against insured depository institutions by the*
15 *Corporation shall be deposited into the Deposit*
16 *Insurance Fund.”;*

17 *(C) by striking paragraphs (5), (6), and (7)*
18 *of subsection (a); and*

19 *(D) by redesignating paragraph (8) of sub-*
20 *section (a) as paragraph (5);*

21 *(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)),*
22 *by striking “, except that—” and all that follows*
23 *through the end of the paragraph and inserting a pe-*
24 *riod;*

25 *(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—*

1 (A) by striking subparagraph (B);

2 (B) by redesignating subparagraph (C) as
3 subparagraph (B); and

4 (C) in subparagraph (B) (as so redesign-
5 ated), by striking “subparagraphs (A) and (B)”
6 and inserting “subparagraph (A)”;

7 (14) in section 11(p)(2)(B) (12 U.S.C.
8 1821(p)(2)(B)), by striking “institution, any” and
9 inserting “institution, the”;

10 (15) in section 11A(a) (12 U.S.C. 1821a(a))—

11 (A) in paragraph (2), by striking “**LIABIL-**
12 **ITIES.—**” and all that follows through “Except”
13 and inserting “**LIABILITIES.—Except**”;

14 (B) by striking paragraph (2)(B); and

15 (C) in paragraph (3), by striking “the
16 Bank Insurance Fund, the Savings Association
17 Insurance Fund,” and inserting “the Deposit In-
18 surance Fund”;

19 (16) in section 11A(b) (12 U.S.C. 1821a(b)), by
20 striking paragraph (4);

21 (17) in section 11A(f) (12 U.S.C. 1821a(f)), by
22 striking “Savings Association Insurance Fund” and
23 inserting “Deposit Insurance Fund”;

24 (18) in section 12(f)(4)(E)(iv) (12 U.S.C.
25 1822(f)(4)(E)(iv)), by striking “Federal deposit insur-

1 *ance funds” and inserting “the Deposit Insurance*
2 *Fund (or any predecessor deposit insurance fund)”;*

3 *(19) in section 13 (12 U.S.C. 1823)—*

4 *(A) by striking “deposit insurance fund”*
5 *each place that term appears and inserting “De-*
6 *posit Insurance Fund”;*

7 *(B) in subsection (a)(1), by striking “Bank*
8 *Insurance Fund, the Savings Association Insur-*
9 *ance Fund,” and inserting “Deposit Insurance*
10 *Fund”;*

11 *(C) in subsection (c)(4)(E)—*

12 *(i) in the subparagraph heading, by*
13 *striking “funds” and inserting “fund”; and*

14 *(ii) in clause (i), by striking “any in-*
15 *surance fund” and inserting “the Deposit*
16 *Insurance Fund”;*

17 *(D) in subsection (c)(4)(G)(ii)—*

18 *(i) by striking “appropriate insurance*
19 *fund” and inserting “Deposit Insurance*
20 *Fund”;*

21 *(ii) by striking “the members of the in-*
22 *surance fund (of which such institution is a*
23 *member)” and inserting “insured depository*
24 *institutions”;*

1 (iii) by striking “each member’s” and
2 inserting “each insured depository institu-
3 tion’s”; and

4 (iv) by striking “the member’s” each
5 place that term appears and inserting “the
6 institution’s”;

7 (E) in subsection (c), by striking paragraph
8 (11);

9 (F) in subsection (h), by striking “Bank In-
10 surance Fund” and inserting “Deposit Insurance
11 Fund”;

12 (G) in subsection (k)(4)(B)(i), by striking
13 “Savings Association Insurance Fund member”
14 and inserting “savings association”; and

15 (H) in subsection (k)(5)(A), by striking
16 “Savings Association Insurance Fund members”
17 and inserting “savings associations”;

18 (20) in section 14(a) (12 U.S.C. 1824(a)), in the
19 5th sentence—

20 (A) by striking “Bank Insurance Fund or
21 the Savings Association Insurance Fund” and
22 inserting “Deposit Insurance Fund”; and

23 (B) by striking “each such fund” and in-
24 serting “the Deposit Insurance Fund”;

1 (21) in section 14(b) (12 U.S.C. 1824(b)), by
 2 striking “Bank Insurance Fund or Savings Associa-
 3 tion Insurance Fund” and inserting “Deposit Insur-
 4 ance Fund”;

5 (22) in section 14(c) (12 U.S.C. 1824(c)), by
 6 striking paragraph (3);

7 (23) in section 14(d) (12 U.S.C. 1824(d))—

8 (A) by striking “Bank Insurance Fund
 9 member” each place that term appears and in-
 10 serting “insured depository institution”;

11 (B) by striking “Bank Insurance Fund
 12 members” each place that term appears and in-
 13 serting “insured depository institutions”;

14 (C) by striking “Bank Insurance Fund”
 15 each place that term appears (other than in con-
 16 nection with a reference to a term amended by
 17 subparagraph (A) or (B) of this paragraph) and
 18 inserting “Deposit Insurance Fund”;

19 (D) by striking the subsection heading and
 20 inserting the following:

21 “(d) BORROWING FOR THE DEPOSIT INSURANCE FUND
 22 FROM INSURED DEPOSITORY INSTITUTIONS.—”;

23 (E) in paragraph (3), in the paragraph
 24 heading, by striking “BIF” and inserting “THE
 25 DEPOSIT INSURANCE FUND”; and

1 (F) in paragraph (5), in the paragraph
2 heading, by striking “BIF MEMBERS” and insert-
3 ing “INSURED DEPOSITORY INSTITUTIONS”;

4 (24) in section 14 (12 U.S.C. 1824), by adding
5 at the end the following new subsection:

6 “(e) *BORROWING FOR THE DEPOSIT INSURANCE FUND*
7 *FROM FEDERAL HOME LOAN BANKS.*—

8 “(1) *IN GENERAL.*—*The Corporation may bor-*
9 *row from the Federal home loan banks, with the con-*
10 *currence of the Federal Housing Finance Board, such*
11 *funds as the Corporation considers necessary for the*
12 *use of the Deposit Insurance Fund.*

13 “(2) *TERMS AND CONDITIONS.*—*Any loan from*
14 *any Federal home loan bank under paragraph (1) to*
15 *the Deposit Insurance Fund shall—*

16 “(A) *bear a rate of interest of not less than*
17 *the current marginal cost of funds to that bank,*
18 *taking into account the maturities involved;*

19 “(B) *be adequately secured, as determined*
20 *by the Federal Housing Finance Board;*

21 “(C) *be a direct liability of the Deposit In-*
22 *surance Fund; and*

23 “(D) *be subject to the limitations of section*
24 *15(c).”;*

25 (25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

1 (A) by striking “the Bank Insurance Fund
2 or Savings Association Insurance Fund, respec-
3 tively” each place that term appears and insert-
4 ing “the Deposit Insurance Fund”; and

5 (B) in subparagraph (B), by striking “the
6 Bank Insurance Fund or the Savings Associa-
7 tion Insurance Fund, respectively” and inserting
8 “the Deposit Insurance Fund”;

9 (26) in section 17(a) (12 U.S.C. 1827(a))—

10 (A) in the subsection heading, by striking
11 “BIF, SAIF,” and inserting “THE DEPOSIT IN-
12 SURANCE FUND”; and

13 (B) in paragraph (1)—

14 (i) by striking “the Bank Insurance
15 Fund, the Savings Association Insurance
16 Fund,” each place that term appears and
17 inserting “the Deposit Insurance Fund”;
18 and

19 (ii) in subparagraph (D), by striking
20 “each insurance fund” and inserting “the
21 Deposit Insurance Fund”;

22 (27) in section 17(d) (12 U.S.C. 1827(d)), by
23 striking “, the Bank Insurance Fund, the Savings As-
24 sociation Insurance Fund,” each place that term ap-
25 pears and inserting “the Deposit Insurance Fund”;

1 (28) in section 18(m)(3) (12 U.S.C.
2 1828(m)(3))—

3 (A) by striking “Savings Association Insur-
4 ance Fund” in the 1st sentence of subparagraph
5 (A) and inserting “Deposit Insurance Fund”;

6 (B) by striking “Savings Association Insur-
7 ance Fund member” in the last sentence of sub-
8 paragraph (A) and inserting “savings associa-
9 tion”; and

10 (C) by striking “Savings Association Insur-
11 ance Fund or the Bank Insurance Fund” in sub-
12 paragraph (C) and inserting “Deposit Insurance
13 Fund”;

14 (29) in section 18(o) (12 U.S.C. 1828(o)), by
15 striking “deposit insurance funds” and “deposit in-
16 surance fund” each place those terms appear and in-
17 serting “Deposit Insurance Fund”;

18 (30) in section 18(p) (12 U.S.C. 1828(p)), by
19 striking “deposit insurance funds” and inserting “De-
20 posit Insurance Fund”;

21 (31) in section 24 (12 U.S.C. 1831a)—

22 (A) in subsections (a)(1) and (d)(1)(A), by
23 striking “appropriate deposit insurance fund”
24 each place that term appears and inserting “De-
25 posit Insurance Fund”;

1 (B) in subsection (e)(2)(A), by striking
2 “risk to” and all that follows through the period
3 and inserting “risk to the Deposit Insurance
4 Fund.”; and

5 (C) in subsections (e)(2)(B)(ii) and
6 (f)(6)(B), by striking “the insurance fund of
7 which such bank is a member” each place that
8 term appears and inserting “the Deposit Insur-
9 ance Fund”;

10 (32) in section 28 (12 U.S.C. 1831e), by striking
11 “affected deposit insurance fund” each place that
12 term appears and inserting “Deposit Insurance
13 Fund”;

14 (33) by striking section 31 (12 U.S.C. 1831h);

15 (34) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)),
16 by striking “affected deposit insurance fund” and in-
17 serting “Deposit Insurance Fund”;

18 (35) in section 37(a)(1)(C) (12 U.S.C.
19 1831n(a)(1)(C)), by striking “insurance funds” and
20 inserting “Deposit Insurance Fund”;

21 (36) in section 38 (12 U.S.C. 1831o), by striking
22 “the deposit insurance fund” each place that term ap-
23 pears and inserting “the Deposit Insurance Fund”;

1 (37) in section 38(a) (12 U.S.C. 1831o(a)), in
2 the subsection heading, by striking “FUNDS” and in-
3 serting “FUND”;

4 (38) in section 38(k) (12 U.S.C. 1831o(k))—

5 (A) in paragraph (1), by striking “a de-
6 posit insurance fund” and inserting “the Deposit
7 Insurance Fund”;

8 (B) in paragraph (2), by striking “A de-
9 posit insurance fund” and inserting “The De-
10 posit Insurance Fund”; and

11 (C) in paragraphs (2)(A) and (3)(B), by
12 striking “the deposit insurance fund’s outlays”
13 each place that term appears and inserting “the
14 outlays of the Deposit Insurance Fund”; and

15 (39) in section 38(o) (12 U.S.C. 1831o(o))—

16 (A) by striking “**ASSOCIATIONS.—**” and
17 all that follows through “Subsections (e)(2)” and
18 inserting **“ASSOCIATIONS.—**Subsections
19 (e)(2)”;

20 (B) by redesignating subparagraphs (A),
21 (B), and (C) as paragraphs (1), (2), and (3), re-
22 spectively, and moving the margins 2 ems to the
23 left; and

24 (C) in paragraph (1) (as so redesignated),
25 by redesignating clauses (i) and (ii) as subpara-

1 graphs (A) and (B), respectively, and moving the
2 margins 2 ems to the left.

3 (b) *EFFECTIVE DATE.*—This section and the amend-
4 ments made by this section shall take effect on the first day
5 of the first calendar quarter that begins after the end of
6 the 90-day period beginning on the date of the enactment
7 of this Act.

8 **SEC. 4013. OTHER TECHNICAL AND CONFORMING AMEND-**
9 **MENTS RELATING TO THE MERGER OF THE**
10 **BIF AND SAIF.**

11 (a) *SECTION 5136 OF THE REVISED STATUTES.*—The
12 paragraph designated the “Eleventh” of section 5136 of the
13 Revised Statutes of the United States (12 U.S.C. 24) is
14 amended in the 5th sentence, by striking “affected deposit
15 insurance fund” and inserting “Deposit Insurance Fund”.

16 (b) *INVESTMENTS PROMOTING PUBLIC WELFARE; LIM-*
17 *ITATIONS ON AGGREGATE INVESTMENTS.*—The 23d undes-
18 ignated paragraph of section 9 of the Federal Reserve Act
19 (12 U.S.C. 338a) is amended in the 4th sentence, by strik-
20 ing “affected deposit insurance fund” and inserting “De-
21 posit Insurance Fund”.

22 (c) *ADVANCES TO CRITICALLY UNDERCAPITALIZED*
23 *DEPOSITORY INSTITUTIONS.*—Section 10B(b)(3)(A)(ii) of
24 the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is

1 *amended by striking “any deposit insurance fund in” and*
 2 *inserting “the Deposit Insurance Fund of”.*

3 (d) *AMENDMENTS TO THE BALANCED BUDGET AND*
 4 *EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section*
 5 *255(g)(1)(A) of the Balanced Budget and Emergency Def-*
 6 *icit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amend-*
 7 *ed—*

8 (1) *by striking “Bank Insurance Fund” and in-*
 9 *serting “Deposit Insurance Fund”; and*

10 (2) *by striking “Federal Deposit Insurance Cor-*
 11 *poration, Savings Association Insurance Fund (51-*
 12 *4066-0-3-373);”.*

13 (e) *AMENDMENTS TO THE FEDERAL HOME LOAN*
 14 *BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C.*
 15 *1421 et seq.) is amended—*

16 (1) *in section 11(k) (12 U.S.C. 1431(k))—*

17 (A) *in the subsection heading, by striking*
 18 *“SAIF” and inserting “THE DEPOSIT INSUR-*
 19 *ANCE FUND”; and*

20 (B) *by striking “Savings Association Insur-*
 21 *ance Fund” each place such term appears and*
 22 *inserting “Deposit Insurance Fund”;*

23 (2) *in section 21 (12 U.S.C. 1441)—*

1 (A) in subsection (f)(2), by striking “, ex-
2 cept that” and all that follows through the end
3 of the paragraph and inserting a period; and

4 (B) in subsection (k), by striking paragraph
5 (4);

6 (3) in section 21A(b)(4)(B) (12 U.S.C.
7 1441a(b)(4)(B)), by striking “affected deposit insur-
8 ance fund” and inserting “Deposit Insurance Fund”;

9 (4) in section 21A(b)(6)(B) (12 U.S.C.
10 1441a(b)(6)(B))—

11 (A) in the subparagraph heading, by strik-
12 ing “SAIF-INSURED BANKS” and inserting
13 “CHARTER CONVERSIONS”; and

14 (B) by striking “Savings Association Insur-
15 ance Fund member” and inserting “savings as-
16 sociation”;

17 (5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C.
18 1441a(b)(10)(A)(iv)(II)), by striking “Savings Asso-
19 ciation Insurance Fund” and inserting “Deposit In-
20 surance Fund”;

21 (6) in section 21A(n)(6)(E)(iv) (12 U.S.C.
22 1441(n)(6)(E)(iv)), by striking “Federal deposit in-
23 surance funds” and inserting “the Deposit Insurance
24 Fund”;

25 (7) in section 21B(e) (12 U.S.C. 1441b(e))—

1 (A) in paragraph (5), by inserting “as of
2 the date of funding” after “Savings Association
3 Insurance Fund members” each place that term
4 appears; and

5 (B) by striking paragraphs (7) and (8); and
6 (8) in section 21B(k) (12 U.S.C. 1441b(k))—

7 (A) by inserting before the colon “, the fol-
8 lowing definitions shall apply”;

9 (B) by striking paragraph (8); and

10 (C) by redesignating paragraphs (9) and
11 (10) as paragraphs (8) and (9), respectively.

12 (f) *AMENDMENTS TO THE HOME OWNERS’ LOAN*
13 *ACT.—The Home Owners’ Loan Act (12 U.S.C. 1461 et*
14 *seq.) is amended—*

15 (1) in section 5 (12 U.S.C. 1464)—

16 (A) in subsection (c)(5)(A), by striking
17 “that is a member of the Bank Insurance Fund”;

18 (B) in subsection (c)(6), by striking “As
19 used in this subsection—” and inserting “For
20 purposes of this subsection, the following defini-
21 tions shall apply.”;

22 (C) in subsection (o)(1), by striking “that is
23 a Bank Insurance Fund member”;

24 (D) in subsection (o)(2)(A), by striking “a
25 Bank Insurance Fund member until such time

1 *as it changes its status to a Savings Association*
2 *Insurance Fund member” and inserting “insured*
3 *by the Deposit Insurance Fund”;*

4 *(E) in subsection (t)(5)(D)(iii)(II), by strik-*
5 *ing “affected deposit insurance fund” and insert-*
6 *ing “Deposit Insurance Fund”;*

7 *(F) in subsection (t)(7)(C)(i)(I), by striking*
8 *“affected deposit insurance fund” and inserting*
9 *“Deposit Insurance Fund”; and*

10 *(G) in subsection (v)(2)(A)(i), by striking*
11 *“the Savings Association Insurance Fund” and*
12 *inserting “or the Deposit Insurance Fund”; and*
13 *(2) in section 10 (12 U.S.C. 1467a)—*

14 *(A) in subsection (c)(6)(D), by striking*
15 *“this title” and inserting “this Act”;*

16 *(B) in subsection (e)(1)(B), by striking*
17 *“Savings Association Insurance Fund or Bank*
18 *Insurance Fund” and inserting “Deposit Insur-*
19 *ance Fund”;*

20 *(C) in subsection (e)(2), by striking “Sav-*
21 *ings Association Insurance Fund or the Bank*
22 *Insurance Fund” and inserting “Deposit Insur-*
23 *ance Fund”;*

24 *(D) in subsection (e)(4)(B), by striking*
25 *“subsection (1)” and inserting “subsection (l)”;*

1 (E) in subsection (g)(3)(A), by striking “(5)
2 of this section” and inserting “(5) of this sub-
3 section”;

4 (F) in subsection (i), by redesignating para-
5 graph (5) as paragraph (4);

6 (G) in subsection (m)(3), by striking sub-
7 paragraph (E) and by redesignating subpara-
8 graphs (F), (G), and (H) as subparagraphs (E),
9 (F), and (G), respectively;

10 (H) in subsection (m)(7)(A), by striking
11 “during period” and inserting “during the pe-
12 riod”; and

13 (I) in subsection (o)(3)(D), by striking “sec-
14 tions 5(s) and (t) of this Act” and inserting
15 “subsections (s) and (t) of section 5”.

16 (g) AMENDMENTS TO THE NATIONAL HOUSING ACT.—
17 *The National Housing Act (12 U.S.C. 1701 et seq.) is*
18 *amended—*

19 (1) in section 317(b)(1)(B) (12 U.S.C.
20 1723i(b)(1)(B)), by striking “Bank Insurance Fund
21 for banks or through the Savings Association Insur-
22 ance Fund for savings associations” and inserting
23 “Deposit Insurance Fund”; and

24 (2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f-
25 14(b)(1)(B)(ii)), by striking “Bank Insurance Fund

1 for banks and through the Savings Association Insur-
2 ance Fund for savings associations” and inserting
3 “Deposit Insurance Fund”.

4 (h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS
5 REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—
6 The Financial Institutions Reform, Recovery, and Enforce-
7 ment Act of 1989 (12 U.S.C. 1811 note) is amended—

8 (1) in section 951(b)(3)(B) (12 U.S.C.
9 1833a(b)(3)(B)), by inserting “and after the merger of
10 such funds, the Deposit Insurance Fund,” after “the
11 Savings Association Insurance Fund,”; and

12 (2) in section 1112(c)(1)(B) (12 U.S.C.
13 3341(c)(1)(B)), by striking “Bank Insurance Fund,
14 the Savings Association Insurance Fund,” and insert-
15 ing “Deposit Insurance Fund”.

16 (i) AMENDMENT TO THE BANK HOLDING COMPANY
17 ACT OF 1956.—The Bank Holding Company Act of 1956
18 (12 U.S.C. 1841 et seq.) is amended—

19 (1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by
20 striking “Savings Association Insurance Fund” and
21 inserting “Deposit Insurance Fund”; and

22 (2) in section 3(d)(1)(D)(iii) (12 U.S.C.
23 1842(d)(1)(D)(iii)), by striking “appropriate deposit
24 insurance fund” and inserting “Deposit Insurance
25 Fund”.

1 (j) *AMENDMENTS TO THE GRAMM-LEACH-BLILEY*
 2 *ACT.*—Section 114 of the Gramm-Leach-Bliley Act (12
 3 U.S.C. 1828a) is amended by striking “any Federal deposit
 4 insurance fund” in subsection (a)(1)(B), paragraphs (2)(B)
 5 and (4)(B) of subsection (b), and subsection (c)(1)(B), each
 6 place that term appears and inserting “the Deposit Insur-
 7 ance Fund”.

8 (k) *EFFECTIVE DATE.*—This section and the amend-
 9 ments made by this section shall take effect on the first day
 10 of the first calendar quarter that begins after the end of
 11 the 90-day period beginning on the date of the enactment
 12 of this Act.

13 ***Subtitle B—FHA Asset Disposition***

14 ***SEC. 4101. SHORT TITLE.***

15 This subtitle may be cited as the “FHA Asset Disposi-
 16 tion Act of 2005”.

17 ***SEC. 4102. DEFINITIONS.***

18 For purposes of this subtitle, the following definitions
 19 shall apply:

20 (1) The term “affordability requirements” means
 21 any requirements or restrictions imposed by the Sec-
 22 retary, at the time of sale, on a multifamily real
 23 property or a multifamily loan, such as use restric-
 24 tions, rent restrictions, and rehabilitation require-
 25 ments.

1 (2) *The term “discount sale” means the sale of*
2 *a multifamily real property in a transaction, such as*
3 *a negotiated sale, in which the sale price is lower*
4 *than the property market value and is set outside of*
5 *a competitive bidding process that has no afford-*
6 *ability requirements.*

7 (3) *The term “discount loan sale” means the sale*
8 *of a multifamily loan in a transaction, such as a ne-*
9 *gotiated sale, in which the sale price is lower than the*
10 *loan market value and is set outside of a competitive*
11 *bidding process that has no affordability require-*
12 *ments.*

13 (4) *The term “loan market value” means the*
14 *value of a multifamily loan, without taking into ac-*
15 *count any affordability requirements.*

16 (5) *The term “multifamily real property” means*
17 *any rental or cooperative housing project of 5 or more*
18 *units owned by the Secretary that prior to acquisition*
19 *by the Secretary was security for a loan or loans in-*
20 *sured under title II of the National Housing Act.*

21 (6) *The term “multifamily loan” means a loan*
22 *held by the Secretary and secured by a multifamily*
23 *rental or cooperative housing project of 5 or more*
24 *units that was formerly insured under title II of the*
25 *National Housing Act.*

1 (7) *The term “property market value” means the*
2 *value of a multifamily real property for its current*
3 *use, without taking into account any affordability re-*
4 *quirements.*

5 (8) *The term “Secretary” means the Secretary of*
6 *Housing and Urban Development.*

7 **SEC. 4103. APPROPRIATED FUNDS REQUIREMENT FOR**
8 **BELOW MARKET SALES.**

9 (a) *DISCOUNT SALES.—Notwithstanding any other*
10 *provision of law, except for affordability requirements for*
11 *the elderly and disabled required by statute, disposition by*
12 *the Secretary of a multifamily real property during fiscal*
13 *years 2006 through 2010 through a discount sale under sec-*
14 *tions 207(l) or 246 of the National Housing Act (12 U.S.C.*
15 *1713(l), 1715z-11), section 203 of the Housing and Commu-*
16 *nity Development Amendments of 1978 (12 U.S.C. 1701z-*
17 *11), or section 204 of the Departments of Veterans Affairs*
18 *and Housing and Urban Development, and Independent*
19 *Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a),*
20 *shall be subject to the availability of appropriations to the*
21 *extent that the property value exceeds the sale proceeds. If*
22 *the multifamily real property is sold, during such fiscal*
23 *years, for an amount equal to or greater than the property*
24 *market value then the transaction is not subject to the avail-*
25 *ability of appropriations.*

1 (b) *DISCOUNT LOAN SALES.*—Notwithstanding any
2 other provision of law and in accordance with the Federal
3 Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount
4 loan sale during fiscal years 2006 through 2010 under sec-
5 tion 207(k) of the National Housing Act (12 U.S.C.
6 1713(k)), section 203(k) of the Housing and Community
7 Development Amendments of 1978 (12 U.S.C. 1701z-11(k)),
8 or section 204(a) of the Departments of Veterans Affairs
9 and Housing and Urban Development, and Independent
10 Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-
11 11a(a)), shall be subject to the availability of appropria-
12 tions to the extent that the loan value exceeds the sale pro-
13 ceeds. If the multifamily loan is sold, during such fiscal
14 years, for an amount equal to or greater than the loan mar-
15 ket value then the transaction is not subject to the avail-
16 ability of appropriations.

17 (c) *APPLICABILITY.*—This section shall not apply to
18 any transaction that formally commences within one year
19 prior to the enactment of this section.

20 **SEC. 4104. UP-FRONT GRANTS.**

21 (a) *1997 Act.*—Section 204(a) of the Departments of
22 Veterans Affairs and Housing And Urban Development,
23 and Independent Agencies Appropriations Act, 1997 (12
24 U.S.C. 1715z-11a(a))) is amended by adding at the end the
25 following new sentence: “A grant provided under this sub-

1 *section during fiscal years 2006 through 2010 shall be*
 2 *available only to the extent that appropriations are made*
 3 *in advance for such purposes and shall not be derived from*
 4 *the General Insurance Fund.”.*

5 *(b) 1978 Act.—Section 203(f)(4) of the Housing and*
 6 *Community Development Amendments of 1978 (12 USC*
 7 *1701z-11(f)(4)) is amended by adding at the end the fol-*
 8 *lowing new sentence: “This paragraph shall be effective dur-*
 9 *ing fiscal years 2006 through 2010 only to the extent that*
 10 *such budget authority is made available for use under this*
 11 *paragraph in advance in appropriation Acts.”.*

12 *(c) APPLICABILITY.—The amendments made by this*
 13 *section shall not apply to any transaction that formally*
 14 *commences within one year prior to the enactment of this*
 15 *section.*

16 **TITLE V—COMMITTEE ON**
 17 **JUDICIARY**

18 **SEC. 5001. TABLE OF CONTENTS.**

TITLE V—COMMITTEE ON JUDICIARY

Sec. 5001. Table of contents.

Subtitle A—Visa Fees

Sec. 5101. Fees with respect to immigration services for intracompany trans-
ferees.

Subtitle B—Circuit and District Judgeships

Sec. 5201. Short title.

Sec. 5202. Circuit judges for the circuit courts of appeals.

Sec. 5203. District judges for the district courts.

Sec. 5204. Establishment of Article III court in the Virgin Islands.

Sec. 5205. Effective date.

Subtitle C—Bankruptcy Judgeships

- Sec. 5301. Short title.*
Sec. 5302. Authorization for additional bankruptcy judgeships.
Sec. 5303. Temporary bankruptcy judgeships.
Sec. 5304. Conversion of existing temporary bankruptcy judgeships.
Sec. 5305. General provisions.
Sec. 5306. Effective date.

Subtitle D—Ninth Circuit Reorganization

- Sec. 5401. Short title.*
Sec. 5402. Definitions.
Sec. 5403. Number and composition of circuits.
Sec. 5404. Number of circuit judges.
Sec. 5405. Places of circuit court.
Sec. 5406. Assignment of circuit judges.
Sec. 5407. Election of assignment by senior judges.
Sec. 5408. Seniority of judges.
Sec. 5409. Application to cases.
Sec. 5410. Temporary assignment of circuit judges among circuits.
Sec. 5411. Temporary assignment of district judges among circuits.
Sec. 5412. Administration.
Sec. 5413. Effective date.

Subtitle E—Authorization of Appropriations

- Sec. 5501. Authorization of appropriations.*

1 ***Subtitle A—Visa Fees***
2 ***SEC. 5101. FEES WITH RESPECT TO IMMIGRATION SERVICES***
3 ***FOR INTRACOMPANY TRANSFEREES.***

4 *Section 214(c) of the Immigration and Nationality Act*
5 *(8 U.S.C. 1184(c)) is amended by adding at the end the*
6 *following:*
7 *“(15)(A) The Secretary of State shall impose a fee on*
8 *an employer when an alien files an application abroad for*
9 *a visa authorizing initial admission to the United States*
10 *as a nonimmigrant described in section 101(a)(15)(L) in*
11 *order to be employed by the employer, if the alien is covered*
12 *under a blanket petition described in paragraph (2)(A).*

1 “(B) *The Secretary of Homeland Security shall impose*
2 *a fee on an employer filing a petition under paragraph (1)*
3 *initially to grant an alien nonimmigrant status described*
4 *in section 101(a)(15)(L) or to extend for the first time the*
5 *stay of an alien having such status.*

6 “(C) *The amount of the fee imposed under subpara-*
7 *graph (A) or (B) shall be \$1,500.*

8 “(D) *The fees imposed under subparagraphs (A) and*
9 *(B) shall only apply to principal aliens and not to spouses*
10 *or children who are accompanying or following to join such*
11 *principal aliens.*

12 “(E) *Fees collected under this paragraph shall be de-*
13 *posited as offsetting receipts in the Treasury, and shall not*
14 *be available for expenditure until appropriated.*

15 “(F)(i) *An employer may not require an alien who*
16 *is the beneficiary of the visa or petition for which a fee*
17 *is imposed under this paragraph to reimburse, or otherwise*
18 *compensate, the employer for part or all of the cost of such*
19 *fee.*

20 “(ii) *Section 274A(g)(2) shall apply to a violation of*
21 *clause (i) in the same manner as it applies to a violation*
22 *of section 274A(g)(1).”.*

1 **Subtitle B—Circuit and District**
2 **Judgeships**

3 **SEC. 5201. SHORT TITLE.**

4 *This subtitle may be cited as the “Federal Judgeship*
5 *Act of 2005”.*

6 **SEC. 5202. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF**
7 **APPEALS.**

8 *(a) IN GENERAL.—The President shall appoint, by*
9 *and with the advice and consent of the Senate—*

10 *(1) 1 additional circuit judge for the first circuit*
11 *court of appeals;*

12 *(2) 2 additional circuit judges for the second cir-*
13 *cuit court of appeals;*

14 *(3) 1 additional circuit judge for the sixth cir-*
15 *cuit court of appeals; and*

16 *(4) 5 additional circuit judges for the ninth cir-*
17 *cuit court of appeals, whose official duty station shall*
18 *be in California.*

19 *(b) TEMPORARY JUDGESHIPS.—*

20 *(1) IN GENERAL.—The President shall appoint,*
21 *by and with the advice and consent of the Senate—*

22 *(A) 1 additional circuit judge for the eighth*
23 *circuit court of appeals; and*

1 (B) 2 additional circuit judges for the ninth
 2 circuit court of appeals, whose official duty sta-
 3 tion shall be in California.

4 (2) VACANCIES.—

5 (A) EIGHTH CIRCUIT.—The first vacancy in
 6 the office of circuit judge in the eighth circuit
 7 court of appeals, occurring 10 years or more
 8 after the confirmation date of the judge named to
 9 fill the circuit judgeship created in that circuit
 10 by paragraph (1)(A) shall not be filled.

11 (B) NINTH CIRCUIT.—The first 2 vacancies
 12 in the office of circuit judge in the ninth circuit
 13 court of appeals, occurring 10 years or more
 14 after judges are first confirmed to fill both tem-
 15 porary circuit judgeships created by paragraph
 16 (1)(B) shall not be filled.

17 (c) TABLE OF JUDGESHIPS.—In order that the table
 18 contained in section 44 of title 28, United States Code, will,
 19 with respect to each judicial circuit, reflect the changes in
 20 the total number of permanent circuit judgeships authorized
 21 under subsection (a) of this section, such table is amended
 22 to read as follows:

“Circuits	Number of Judges
District of Columbia	12
First	7
Second	15
Third	14
Fourth	15

<i>Fifth</i>	17
<i>Sixth</i>	17
<i>Seventh</i>	11
<i>Eighth</i>	11
<i>Ninth</i>	33
<i>Tenth</i>	12
<i>Eleventh</i>	12
<i>Federal</i>	12.”.

1 **SEC. 5203. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

2 (a) *IN GENERAL.*—*The President shall appoint, by*
3 *and with the advice and consent of the Senate—*

4 (1) *1 additional district judge for the northern*
5 *district of Alabama;*

6 (2) *4 additional district judges for the district of*
7 *Arizona;*

8 (3) *3 additional district judges for the northern*
9 *district of California;*

10 (4) *4 additional district judges for the eastern*
11 *district of California;*

12 (5) *4 additional district judges for the central*
13 *district of California;*

14 (6) *1 additional district judge for the southern*
15 *district of California;*

16 (7) *1 additional district judge for the district of*
17 *Colorado;*

18 (8) *4 additional district judges for the middle*
19 *district of Florida;*

20 (9) *3 additional district judges for the southern*
21 *district of Florida;*

1 (10) 1 additional district judge for the district of
2 Idaho;

3 (11) 1 additional district judge for the northern
4 district of Illinois;

5 (12) 1 additional district judge for the southern
6 district of Indiana;

7 (13) 1 additional district judge for the western
8 district of Missouri;

9 (14) 1 additional district judge for the district of
10 Nebraska;

11 (15) 1 additional district judge for the district of
12 Nevada;

13 (16) 1 additional district judge for the district of
14 New Mexico;

15 (17) 3 additional district judges for the eastern
16 district of New York;

17 (18) 1 additional district judge for the western
18 district of New York;

19 (19) 1 additional district judge for the district of
20 Oregon;

21 (20) 1 additional district judge for the district of
22 South Carolina;

23 (21) 3 additional district judges for the southern
24 district of Texas;

1 (22) *2 additional district judges for the eastern*
2 *district of Virginia; and*

3 (23) *1 additional district judge for the western*
4 *district of Washington.*

5 **(b) TEMPORARY JUDGESHIPS.—**

6 (1) *IN GENERAL.—The President shall appoint,*
7 *by and with the advice and consent of the Senate—*

8 (A) *1 additional district judge for the mid-*
9 *dle district of Alabama;*

10 (B) *1 additional district judge for the dis-*
11 *trict of Arizona;*

12 (C) *1 additional district judge for the*
13 *northern district of California;*

14 (D) *1 additional district judge for the dis-*
15 *trict of Colorado;*

16 (E) *1 additional district judge for the mid-*
17 *dle district of Florida;*

18 (F) *1 additional district judge for the*
19 *northern district of Iowa;*

20 (G) *1 additional district judge for the dis-*
21 *trict of Minnesota;*

22 (H) *1 additional district judge for the dis-*
23 *trict of New Jersey;*

24 (I) *1 additional district judge for the dis-*
25 *trict of New Mexico;*

1 *(J) 1 additional district judge for the south-*
2 *ern district of Ohio;*

3 *(K) 1 additional district judge for the dis-*
4 *trict of Oregon; and*

5 *(L) 1 additional district judge for the dis-*
6 *trict of Utah.*

7 (2) *VACANCIES NOT FILLED.*—*The first vacancy*
8 *in the office of district judge in each of the judicial*
9 *districts named in paragraph (1) occurring 10 years*
10 *or more after the confirmation date of the judge*
11 *named to fill the district judgeship created in that*
12 *district by paragraph (1) shall not be filled.*

13 (c) *EXISTING JUDGESHIPS.*—

14 (1) *PERMANENT JUDGESHIPS.*—*The existing*
15 *judgeships for the district of Hawaii, the district of*
16 *Kansas, and the eastern district of Missouri author-*
17 *ized by section 203(c) of the Judicial Improvements*
18 *Act of 1990 (Public Law 101–650; 28 U.S.C. 133*
19 *note) shall, as of the effective date of this Act, be au-*
20 *thorized under section 133 of title 28, United States*
21 *Code, and the incumbents in those offices shall hold*
22 *the office under section 133 of title 28, United States*
23 *Code, as amended by this Act.*

24 (2) *EXTENSION OF TEMPORARY JUDGESHIP.*—
25 *Section 203(c) of the Judicial Improvements Act of*

1 1990 (Public Law 101–650; 28 U.S.C. 133 note) is
 2 amended in the fifth sentence (relating to the northern
 3 district of Ohio) by striking “15 years” and inserting
 4 “20 years”.

5 (d) *TABLE OF JUDGESHIPS*.—In order that the table
 6 contained in section 133(a) of title 28, United States Code,
 7 will, with respect to each judicial district, reflect the
 8 changes in the total number of permanent district judge-
 9 ships authorized under subsections (a) and (c) of this sec-
 10 tion, such table is amended to read as follows:

“Districts	Judges
“Alabama:	
“Northern	8
“Middle	3
“Southern	3
“Alaska	3
“Arizona	16
“Arkansas:	
“Eastern	5
“Western	3
“California:	
“Northern	17
“Eastern	10
“Central	31
“Southern	14
“Colorado	8
“Connecticut	8
“Delaware	4
“District of Columbia	15
“Florida:	
“Northern	4
“Middle	19
“Southern	20
“Georgia:	
“Northern	11
“Middle	4
“Southern	3
“Hawaii	4
“Idaho	3
“Illinois:	
“Northern	23
“Central	4
“Southern	4

“Indiana:	
“Northern	5
“Southern	6
“Iowa:	
“Northern	2
“Southern	3
“Kansas	6
“Kentucky:	
“Eastern	5
“Western	4
“Eastern and Western	1
“Louisiana:	
“Eastern	12
“Middle	3
“Western	7
“Maine	3
“Maryland	10
“Massachusetts	13
“Michigan:	
“Eastern	15
“Western	4
“Minnesota	7
“Mississippi:	
“Northern	3
“Southern	6
“Missouri:	
“Eastern	7
“Western	6
“Eastern and Western	2
“Montana	3
“Nebraska	4
“Nevada	8
“New Hampshire	3
“New Jersey	17
“New Mexico	7
“New York:	
“Northern	5
“Southern	28
“Eastern	18
“Western	5
“North Carolina:	
“Eastern	4
“Middle	4
“Western	4
“North Dakota	2
“Ohio:	
“Northern	11
“Southern	8
“Oklahoma:	
“Northern	3
“Eastern	1
“Western	6
“Northern, Eastern, and Western.	1
“Oregon	7

“ <i>Pennsylvania:</i>	
“ <i>Eastern</i>	22
“ <i>Middle</i>	6
“ <i>Western</i>	10
“ <i>Puerto Rico</i>	7
“ <i>Rhode Island</i>	3
“ <i>South Carolina</i>	11
“ <i>South Dakota</i>	3
“ <i>Tennessee:</i>	
“ <i>Eastern</i>	5
“ <i>Middle</i>	4
“ <i>Western</i>	5
“ <i>Texas:</i>	
“ <i>Northern</i>	12
“ <i>Southern</i>	22
“ <i>Eastern</i>	7
“ <i>Western</i>	13
“ <i>Utah</i>	5
“ <i>Vermont</i>	2
“ <i>Virginia:</i>	
“ <i>Eastern</i>	13
“ <i>Western</i>	4
“ <i>Washington:</i>	
“ <i>Eastern</i>	4
“ <i>Western</i>	8
“ <i>West Virginia:</i>	
“ <i>Northern</i>	3
“ <i>Southern</i>	5
“ <i>Wisconsin:</i>	
“ <i>Eastern</i>	5
“ <i>Western</i>	2
“ <i>Wyoming</i>	3.”

1 **SEC. 5204. ESTABLISHMENT OF ARTICLE III COURT IN THE**
2 **VIRGIN ISLANDS.**

3 (a) *ESTABLISHMENT OF JUDICIAL DISTRICT.*—

4 (1) *VIRGIN ISLANDS.*—Chapter 5 of title 28,
5 *United States Code*, is amended by inserting after sec-
6 *tion 126* the following new section:

7 “§ 126A. *Virgin Islands*

8 “*The Virgin Islands constitutes 1 judicial district com-*
9 *prising 2 divisions.*

1 “(1) *The Saint Croix Division comprises the Is-*
 2 *land of Saint Croix and adjacent islands and cays.*

3 “*Court for the Saint Croix Division shall be*
 4 *held at Christiansted.*”

5 “(2) *The Saint Thomas and Saint John Divi-*
 6 *sion comprises the Islands of Saint Thomas and*
 7 *Saint John and adjacent islands and cays.*

8 “*Court for the Saint Thomas and Saint*
 9 *John Division shall be held at Charlotte-*
 10 *Amalie.*”

11 (2) *TECHNICAL AND CONFORMING AMEND-*
 12 *MENT.—The table of contents for chapter 5 of title 28,*
 13 *United States Code, is amended by inserting after the*
 14 *item relating to section 126 the following:*

 “126A. *Virgin Islands.*”

15 (b) *NUMBER OF JUDGES.—The table contained in sec-*
 16 *tion 133(a) of title 28, United States Code, is amended by*
 17 *inserting after the item relating to Vermont the following:*

 “*Virgin Islands* 2”.

18 (c) *BANKRUPTCY JUDGES.—The table contained in*
 19 *section 152(a)(2) of title 28, United States Code, is amend-*
 20 *ed by inserting after the item relating to Vermont the fol-*
 21 *lowing:*

 “*Virgin Islands* 0”.

1 (d) *JUDICIAL CONFERENCES OF CIRCUITS.*—Section
 2 333 of title 28, United States Code, is amended in the third
 3 sentence of the first undesignated paragraph—

4 (1) by striking “, the District Court of the Virgin
 5 Islands,”; and

6 (2) by striking “to the conferences of their respec-
 7 tive circuits” and inserting “to the conference of the
 8 ninth circuit”.

9 (e) *JUDGES IN TERRITORIES AND POSSESSIONS.*—Sec-
 10 tion 373 of title 28, United States Code, is amended—

11 (1) in subsection (a), by striking “, the District
 12 Court of the Northern Mariana Islands, or the Dis-
 13 trict Court of the Virgin Islands” and inserting “or
 14 the District Court of the Northern Mariana Islands”;
 15 and

16 (2) in subsection (e), by striking “, the District
 17 Court of the Northern Mariana Islands, or the Dis-
 18 trict Court of the Virgin Islands” and inserting “or
 19 the District Court of the Northern Mariana Islands”.

20 (f) *ANNUITIES FOR SURVIVORS OF CERTAIN JUDICIAL*
 21 *OFFICIALS OF THE UNITED STATES.*—Section 376(a) of
 22 title 28, United States Code, is amended—

23 (1) in paragraph (1)(B), by striking “, the Dis-
 24 trict Court of the Northern Mariana Islands, or the
 25 District Court of the Virgin Islands” and inserting

1 *“or the District Court of the Northern Mariana Is-*
2 *lands”*; and

3 (2) *in paragraph (2)(B), by striking “, the Dis-*
4 *trict Court of the Northern Mariana Islands, or the*
5 *District Court of the Virgin Islands” and inserting*
6 *“or the District Court of the Northern Mariana Is-*
7 *lands”.*

8 (g) *AUTHORITY OF ATTORNEY GENERAL.—Section*
9 *526(a)(2) of title 28, United States Code, is amended by*
10 *striking “and of the district court of the Virgin Islands”.*

11 (h) *COURTS DEFINED.—Section 610 of title 28, United*
12 *States Code, is amended—*

13 (1) *by striking “the United States District Court*
14 *for the District of the Canal Zone,”*; and

15 (2) *by striking “the District Court of the Virgin*
16 *Islands,”.*

17 (i) *UNITED STATES MAGISTRATE JUDGES.—Section*
18 *631(a) of title 28, United States Code, is amended—*

19 (1) *in the first sentence, by striking “the Virgin*
20 *Islands, Guam,” and inserting “Guam”*; and

21 (2) *in the second sentence, by striking “the Vir-*
22 *gin Islands, Guam,” and inserting “Guam”.*

23 (j) *COURT REPORTERS.—Section 753(a) of title 28,*
24 *United States Code, is amended by striking “, the United*
25 *States District Court for the District of the Canal Zone,*

1 *the District Court of Guam, and the District Court of the*
2 *Virgin Islands” and inserting “and the District Court of*
3 *Guam”.*

4 *(k) FINAL DECISIONS OF DISTRICT COURTS.—Section*
5 *1291 of title 28, United States Code, is amended by striking*
6 *“, the United States District Court for the District of the*
7 *Canal Zone, the District Court of Guam, and the District*
8 *Court of the Virgin Islands,” and inserting “and the Dis-*
9 *trict Court of Guam,”.*

10 *(l) INTERLOCUTORY DECISIONS.—Section 1292 of title*
11 *28, United States Code, is amended—*

12 *(1) in subsection (a), by striking “, the United*
13 *States District Court for the District of the Canal*
14 *Zone, the District Court of Guam, and the District*
15 *Court of the Virgin Islands,” and inserting “and the*
16 *District Court of Guam,”; and*

17 *(2) in subsection (d)(4)(A), by striking “the Dis-*
18 *trict Court of the Virgin Islands,”.*

19 *(m) JURISDICTION OF THE UNITED STATES COURT OF*
20 *APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a) of*
21 *title 28, United States Code, is amended in paragraphs (1)*
22 *and (2)—*

23 *(1) by striking “the United States District Court*
24 *for the District of the Canal Zone,”; and*

1 (2) *by striking “the District Court of the Virgin*
2 *Islands,”.*

3 (n) *UNITED STATES AS DEFENDANT.—Section*
4 *1346(b)(1) of title 28, United States Code, is amended by*
5 *striking “, together with the United States District Court*
6 *for the District of the Canal Zone and the District Court*
7 *of the Virgin Islands,”.*

8 (o) *ADEQUATE REPRESENTATION OF DEFENDANTS.—*
9 *Section 3006A(j) of title 18, United States Code, is amended*
10 *by striking “the District Court of the Virgin Islands,”.*

11 (p) *SAVINGS PROVISIONS.—*

12 (1) *TENURE OF INCUMBENT JUDGES.—A judge of*
13 *the District Court of the Virgin Islands in office on*
14 *the effective date of this section shall continue in office*
15 *until the expiration of the term for which the judge*
16 *was appointed, or until the judge dies, resigns, or is*
17 *removed from office, whichever occurs first. When a*
18 *vacancy occurs on the court on or after the effective*
19 *date of this section, the President, in accordance with*
20 *section 133(a) of title 28, United States Code, shall*
21 *appoint, by and with the advice and consent of the*
22 *Senate, a district judge for the District of the Virgin*
23 *Islands.*

24 (2) *RETIREMENT RIGHTS AND BENEFITS.—The*
25 *amendments made by this section shall not affect the*

1 *rights under sections 373 and 376 of title 28, United*
2 *States Code, of any judge of the District Court of the*
3 *Virgin Islands who retires on or before the effective*
4 *date of this section or who continues in office after*
5 *that date under paragraph (1) of this subsection.*
6 *Service as a judge of the District Court of the Virgin*
7 *Islands appointed under section 24 of the Revised Or-*
8 *ganic Act of the Virgin Islands (48 U.S.C. 1614) shall*
9 *be included in calculating service under sections 371*
10 *and 372 of title 28, United States Code, and shall not*
11 *be counted for purposes of section 373 of that title, if*
12 *the judge is reappointed, after the effective date of this*
13 *section, under section 133(a) of title 28, United States*
14 *Code, as district judge for the District of the Virgin*
15 *Islands.*

16 *(q) AMENDMENTS TO REVISED ORGANIC ACT OF THE*
17 *VIRGIN ISLANDS.—*

18 *(1) REPEALS.—Sections 24, 25, 26, and 27 of*
19 *the Revised Organic Act of the Virgin Islands (48*
20 *U.S.C. 1614, 1615, 1616 and 1617) are repealed.*

21 *(2) RIGHTS AND PROHIBITIONS.—Section 3 of*
22 *the Revised Organic Act of the Virgin Islands (48*
23 *U.S.C. 1561) is amended in the 23d undesignated*
24 *paragraph—*

1 (A) by inserting “article III;” after “section
2 9, clauses 2 and 3;” and

3 (B) by striking “That all offenses against
4 the laws of the United States” and all that fol-
5 lows through “section 22(b) of this Act or” and
6 inserting “That all offenses against the laws of
7 the Virgin Islands which are prosecuted”.

8 (3) *JURISDICTION.*—Section 21 of the Revised
9 Organic Act of the Virgin Islands (48 U.S.C. 1611)
10 is amended to read as follows:

11 **“SEC. 21. JURISDICTION OF THE COURTS OF THE VIRGIN**
12 **ISLANDS.**

13 “(a) *JURISDICTION OF THE COURTS OF THE VIRGIN*
14 *ISLANDS.*—The judicial power of the Virgin Islands shall
15 be vested in such trial and appellate courts as may have
16 been or may hereafter be established by local law. The local
17 courts of the Virgin Islands shall have jurisdiction over all
18 causes of action in the Virgin Islands over which any court
19 established by the Constitution and laws of the United
20 States does not have exclusive jurisdiction.

21 “(b) *PRACTICE AND PROCEDURE.*—The rules gov-
22 erning the practice and procedure of the courts established
23 by local law and those prescribing the qualifications and
24 duties of the judges and officers thereof, oaths and bonds,

1 *and the times and places of holding court shall be governed*
2 *by local law or the rules promulgated by those courts.”.*

3 (4) *INCOME TAX MATTERS.*—Section 22 of the
4 *Revised Organic Act of the Virgin Islands (48 U.S.C.*
5 *1612) is amended to read as follows:*

6 **“SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.**

7 *“The United States District Court for the District of*
8 *the Virgin Islands shall have exclusive jurisdiction over all*
9 *criminal and civil proceedings in the Virgin Islands with*
10 *respect to the income tax laws applicable to the Virgin Is-*
11 *lands, except the ancillary laws relating to the income tax*
12 *enacted by the legislature of the Virgin Islands. Any act*
13 *or failure to act with respect to the income tax laws appli-*
14 *cable to the Virgin Islands which would constitute a crimi-*
15 *nal offense described in chapter 75 of subtitle F of the Inter-*
16 *nal Revenue Code of 1986 shall constitute an offense against*
17 *the Government of the Virgin Islands and may be pros-*
18 *ecuted in the name of the Government of the Virgin Islands*
19 *by the appropriate officers thereof in the United States Dis-*
20 *trict Court for the District of the Virgin Islands without*
21 *the request or consent of the United States attorney for the*
22 *Virgin Islands.”.*

23 (5) *APPELLATE JURISDICTION.*—Section 23A of
24 *the Revised Organic Act of the Virgin Islands (48*
25 *U.S.C. 1613a) is amended—*

1 (A) by striking “District Court of the Vir-
2 gin Islands” each place it appears and inserting
3 “United States District Court for the District of
4 the Virgin Islands”; and

5 (B) in subsection (b), by striking “pursuant
6 to section 24(a) of this Act: Provided, That no
7 more than one of them may be a judge of a court
8 established by local law.” and inserting “pursu-
9 ant to chapter 13 of title 28, United States Code,
10 or a recalled senior judge of the former District
11 Court of the Virgin Islands. The chief judge of
12 the United States Court of Appeals for the Third
13 Circuit may assign to the appellate division a
14 judge of a court of record of the Virgin Islands,
15 except that no more than 1 of the judges sitting
16 in the appellate division at any session may be
17 a judge of a court established by local law.”.

18 (r) *ADDITIONAL REFERENCES.*—Any reference in any
19 provision of law to the “District Court of the Virgin Is-
20 lands” shall, on and after the effective date of this section,
21 be deemed to be a reference to the United States District
22 Court for the District of the Virgin Islands.

23 (s) *EFFECTIVE DATE.*—This section and the amend-
24 ments made by this section shall take effect at the end of
25 the 90-day period beginning on the date of the enactment

1 *of this Act. Any complaint or proceeding pending in the*
 2 *District Court of the Virgin Islands on the effective date*
 3 *of this section may be pursued to final determination in*
 4 *the United States District Court for the District of the Vir-*
 5 *gin Islands, the United States Court of Appeals for the*
 6 *Third Circuit, the United States Court of Appeals for the*
 7 *Federal Circuit, and the Supreme Court of the United*
 8 *States.*

9 **SEC. 5205. EFFECTIVE DATE.**

10 *Except as provided in section 5204(s), this subtitle and*
 11 *the amendments made by this subtitle shall take effect on*
 12 *the date of the enactment of this Act.*

13 ***Subtitle C—Bankruptcy Judgeships***

14 **SEC. 5301. SHORT TITLE.**

15 *This subtitle may be cited as the “Enhanced Bank-*
 16 *ruptcy Judgeship Act of 2005”.*

17 **SEC. 5302. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY**
 18 **JUDGESHIPS.**

19 *The following judgeships shall be filled in the manner*
 20 *prescribed in section 152(a)(1) of title 28, United States*
 21 *Code, for the appointment of bankruptcy judges provided*
 22 *for in section 152(a)(2) of such title:*

23 *(1) 1 additional bankruptcy judgeship for the*
 24 *eastern and western districts of Arkansas.*

1 (2) 1 additional bankruptcy judgeship for the
2 eastern district of California.

3 (3) 2 additional bankruptcy judgeships for the
4 middle district of Florida.

5 (4) 2 additional bankruptcy judgeships for the
6 northern district of Georgia.

7 (5) 1 additional bankruptcy judgeship for the
8 southern district of Georgia.

9 (6) 1 additional bankruptcy judgeship for the
10 eastern district of Kentucky.

11 (7) 1 additional bankruptcy judgeship for the
12 district of Maryland.

13 (8) 3 additional bankruptcy judgeships for the
14 eastern district of Michigan.

15 (9) 1 additional bankruptcy judgeship for the
16 southern district of New York.

17 (10) 1 additional bankruptcy judgeship for the
18 western district of Pennsylvania.

19 (11) 1 additional bankruptcy judgeship for the
20 western district of Tennessee.

21 (12) 1 additional bankruptcy judgeship for the
22 eastern district of Texas.

23 (13) 1 additional bankruptcy judgeship for the
24 district of Utah.

1 **SEC. 5303. TEMPORARY BANKRUPTCY JUDGESHIPS.**

2 (a) *AUTHORIZATION FOR ADDITIONAL TEMPORARY*
3 *BANKRUPTCY JUDGESHIPS.*—*The following judgeships shall*
4 *be filled in the manner prescribed in section 152(a)(1) of*
5 *title 28, United States Code, for the appointment of bank-*
6 *ruptcy judges provided for in section 152(a)(2) of such title:*

7 (1) *1 additional bankruptcy judgeship for the*
8 *northern district of Florida.*

9 (2) *2 additional bankruptcy judgeships for the*
10 *middle district of Florida.*

11 (3) *1 additional bankruptcy judgeship for the*
12 *northern district of Indiana.*

13 (4) *1 additional bankruptcy judgeship for the*
14 *northern district of Mississippi.*

15 (5) *1 additional bankruptcy judgeship for the*
16 *district of Nevada.*

17 (6) *1 additional bankruptcy judgeship for the*
18 *western district of North Carolina.*

19 (7) *1 additional bankruptcy judgeship for the*
20 *southern district of Ohio.*

21 (b) *VACANCIES.*—

22 (1) *DISTRICTS WITH SINGLE APPOINTMENTS.*—
23 *Except as provided in paragraph (2), the first va-*
24 *cancy occurring in the office of bankruptcy judge in*
25 *each of the judicial districts set forth in subsection*

26 (a)—

1 (A) occurring 5 years or more after the ap-
2 pointment date of the bankruptcy judge ap-
3 pointed under subsection (a) to such office, and
4 (B) resulting from the death, retirement,
5 resignation, or removal of a bankruptcy judge,
6 shall not be filled.

7 (2) *MIDDLE DISTRICT OF FLORIDA.*—The 1st
8 and 2d vacancies in the office of bankruptcy judge in
9 the middle district of Florida—

10 (A) occurring 5 years or more after the re-
11 spective 1st and 2d appointment dates of the
12 bankruptcy judges appointed under subsection
13 (a)(2), and

14 (B) resulting from the death, retirement,
15 resignation, or removal of a bankruptcy judge,
16 shall not be filled.

17 (c) *ELIGIBILITY FOR SUBSEQUENT APPOINTMENTS.*—
18 A judge holding office in any of the districts enumerated
19 in subsection (a) shall, at the expiration of the term of the
20 judge (other than by reason of paragraph (1)(B) or (2)(B)
21 of subsection (b)), be eligible for reappointment as a bank-
22 ruptcy judge in that district.

1 **SEC. 5304. CONVERSION OF EXISTING TEMPORARY BANK-**
2 **RUPTCY JUDGESHIPS.**

3 (a) *JUDGESHIPS AUTHORIZED BY PUBLIC LAW 102-*
4 *361.—The following temporary bankruptcy judgeships au-*
5 *thorized by the following paragraphs of section 3(a) of Pub-*
6 *lic Law 102–361, as amended by section 307 of Public Law*
7 *104–317 (28 U.S.C. 152 note), are converted to permanent*
8 *bankruptcy judgeships under section 152(a)(2) of title 28,*
9 *United States Code:*

10 (1) *The temporary bankruptcy judgeship for the*
11 *district of Delaware authorized by paragraph (3).*

12 (2) *The temporary bankruptcy judgeship for the*
13 *southern district of Illinois authorized by paragraph*
14 *(4).*

15 (3) *The temporary bankruptcy judgeship for the*
16 *district of Puerto Rico authorized by paragraph (7).*

17 (b) *JUDGESHIPS AUTHORIZED BY PUBLIC LAW 109-*
18 *s.—The following temporary bankruptcy judgeships author-*
19 *ized by the following subparagraphs of section 1223(b)(1)*
20 *of the Bankruptcy Abuse Prevention and Consumer Protec-*
21 *tion Act of 2005 (Public Law 109–8), are converted to per-*
22 *manent bankruptcy judgeships under section 152(a)(2) of*
23 *title 28, United States Code:*

24 (1) *The 4 temporary bankruptcy judgeships for*
25 *the district of Delaware authorized by subparagraph*
26 *(C).*

1 (2) *The temporary bankruptcy judgeship for the*
2 *southern district of Georgia authorized by subpara-*
3 *graph (E).*

4 (3) *One of the 3 temporary bankruptcy judge-*
5 *ships for the district of Maryland authorized by sub-*
6 *paragraph (F).*

7 (4) *The temporary bankruptcy judgeship for the*
8 *eastern district of Michigan authorized by subpara-*
9 *graph (G).*

10 (5) *The temporary bankruptcy judgeship for the*
11 *district of New Jersey authorized by subparagraph*
12 *(I).*

13 (6) *The temporary bankruptcy judgeship for the*
14 *northern district of New York authorized by subpara-*
15 *graph (K).*

16 (7) *The temporary bankruptcy judgeship for the*
17 *southern district of New York authorized by subpara-*
18 *graph (L).*

19 (8) *The temporary bankruptcy judgeship for the*
20 *eastern district of North Carolina authorized by sub-*
21 *paragraph (M).*

22 (9) *The temporary bankruptcy judgeship for the*
23 *eastern district of Pennsylvania authorized by sub-*
24 *paragraph (N).*

1 (10) *The temporary bankruptcy judgeship for the*
 2 *district of South Carolina authorized by subpara-*
 3 *graph (S).*

4 (11) *The temporary bankruptcy judgeship for the*
 5 *western district of Tennessee authorized by subpara-*
 6 *graph (Q).*

7 **SEC. 5305. GENERAL PROVISIONS.**

8 (a) *TABLE OF JUDGESHIPS.—In order that the table*
 9 *contained in section 152(a)(2) of title 28, United States*
 10 *Code, will, with respect to each judicial district, reflect the*
 11 *changes in the total number of bankruptcy judgeships au-*
 12 *thorized under sections 5302 and 5304, such table is amend-*
 13 *ed to read as follows:*

“Districts	Judges
“Alabama:	
“Northern	5
“Middle	2
“Southern	2
“Alaska	2
“Arizona	7
“Arkansas:	
“Eastern and Western	4
“California:	
“Northern.....	9
“Eastern.....	7
“Central	21
“Southern	4
“Colorado.....	5
“Connecticut.....	3
“Delaware.....	6
“District of Columbia.....	1
“Florida:	
“Northern.....	1
“Middle.....	10
“Southern.....	5
“Georgia:	
“Northern.....	10
“Middle.....	3
“Southern	4
“Hawaii.....	1

“Idaho.....	2
“Illinois:	
“Northern.....	10
“Central.....	3
“Southern.....	2
“Indiana:	
“Northern.....	3
“Southern.....	4
“Iowa:	
“Northern.....	2
“Southern.....	2
“Kansas.....	4
“Kentucky:	
“Eastern.....	3
“Western.....	3
“Louisiana:	
“Eastern.....	2
“Middle.....	1
“Western.....	3
“Maine.....	2
“Maryland.....	6
“Massachusetts.....	5
“Michigan:	
“Eastern.....	8
“Western.....	3
“Minnesota.....	4
“Mississippi:	
“Northern.....	1
“Southern.....	2
“Missouri:	
“Eastern.....	3
“Western.....	3
“Montana.....	1
“Nebraska.....	2
“Nevada.....	3
“New Hampshire.....	1
“New Jersey.....	9
“New Mexico.....	2
“New York:	
“Northern.....	3
“Southern.....	11
“Eastern.....	6
“Western.....	3
“North Carolina:	
“Eastern.....	3
“Middle.....	2
“Western.....	2
“North Dakota.....	1
“Ohio:	
“Northern.....	8
“Southern.....	7
“Oklahoma:	
“Northern.....	2
“Eastern.....	1
“Western.....	3

“Oregon.....	5
“Pennsylvania:	
“Eastern.....	6
“Middle.....	2
“Western.....	5
“Puerto Rico.....	3
“Rhode Island.....	1
“South Carolina.....	3
“South Dakota.....	2
“Tennessee:	
“Eastern.....	3
“Middle.....	3
“Western.....	6
“Texas:	
“Northern.....	6
“Eastern.....	3
“Southern.....	6
“Western.....	4
“Utah.....	4
“Vermont.....	1
“Virgin Islands.....	0
“Virginia:	
“Eastern.....	5
“Western.....	3
“Washington:	
“Eastern.....	2
“Western.....	5
“West Virginia:	
“Northern.....	1
“Southern.....	1
“Wisconsin:	
“Eastern.....	4
“Western.....	2
“Wyoming.....”	1.”

1 (b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
2 *gress that bankruptcy judges in the eastern district of Cali-*
3 *fornia should conduct bankruptcy proceedings on a daily*
4 *basis in Bakersfield, California.*

5 **SEC. 5306. EFFECTIVE DATE.**

6 *This subtitle and the amendments made by this sub-*
7 *title shall take effect on the date of the enactment of this*
8 *Act.*

1 **Subtitle D—Ninth Circuit**
 2 **Reorganization**

3 **SEC. 5401. SHORT TITLE.**

4 *This subtitle may be cited as the “Judicial Adminis-*
 5 *tration and Improvements Act of 2005”.*

6 **SEC. 5402. DEFINITIONS.**

7 *In this subtitle:*

8 (1) *FORMER NINTH CIRCUIT.*—*The term “former*
 9 *ninth circuit” means the ninth judicial circuit of the*
 10 *United States as in existence on the day before the ef-*
 11 *fective date of this subtitle.*

12 (2) *NEW NINTH CIRCUIT.*—*The term “new ninth*
 13 *circuit” means the ninth judicial circuit of the*
 14 *United States established by the amendment made by*
 15 *section 5403(2)(A).*

16 (3) *TWELFTH CIRCUIT.*—*The term “twelfth cir-*
 17 *cuit” means the twelfth judicial circuit of the United*
 18 *States established by the amendment made by section*
 19 *5403(2)(B).*

20 **SEC. 5403. NUMBER AND COMPOSITION OF CIRCUITS.**

21 *Section 41 of title 28, United States Code, is amend-*
 22 *ed—*

23 (1) *in the matter preceding the table, by striking*
 24 *“thirteen” and inserting “fourteen”; and*

25 (2) *in the table—*

1 (A) by striking the item relating to the
2 ninth circuit and inserting the following:

“Ninth California, Guam, Hawaii, Northern
Mariana Islands.”;

3 and

4 (B) by inserting after the item relating to
5 the eleventh circuit the following:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
vada, Oregon, Washington.”.

6 **SEC. 5404. NUMBER OF CIRCUIT JUDGES.**

7 The table contained in section 44(a) of title 28, United
8 States Code, as amended by section 5202(c) of this Act, is
9 further amended—

10 (1) by striking the item relating to the ninth cir-
11 cuit and inserting the following:

“Ninth 19”;

12 and

13 (2) by inserting after the item relating to the
14 eleventh circuit the following:

“Twelfth 14”.

15 **SEC. 5405. PLACES OF CIRCUIT COURT.**

16 The table contained in section 48(a) of title 28, United
17 States Code, is amended—

18 (1) by striking the item relating to the ninth cir-
19 cuit and inserting the following:

“Ninth Honolulu, Pasadena, San Francisco.”;

20 and

1 (2) by inserting after the item relating to the
2 eleventh circuit the following:

“Twelfth Las Vegas, Missoula, Phoenix, Port-
land, Seattle.”.

3 **SEC. 5406. ASSIGNMENT OF CIRCUIT JUDGES.**

4 Each circuit judge of the former ninth circuit who is
5 in regular active service and whose official duty station on
6 the day before the effective date of this subtitle—

7 (1) is in California, Guam, Hawaii, or the
8 Northern Mariana Islands shall be a circuit judge of
9 the new ninth circuit as of such effective date; and

10 (2) is in Alaska, Arizona, Idaho, Montana, Ne-
11 vada, Oregon, or Washington shall be a circuit judge
12 of the twelfth circuit as of such effective date.

13 **SEC. 5407. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

14 Each judge who is a senior circuit judge of the former
15 ninth circuit on the day before the effective date of this sub-
16 title may elect to be assigned to the new ninth circuit or
17 the twelfth circuit as of such effective date and shall notify
18 the Director of the Administrative Office of the United
19 States Courts of such election.

20 **SEC. 5408. SENIORITY OF JUDGES.**

21 The seniority of each judge—

22 (1) who is assigned under section 5406, or

23 (2) who elects to be assigned under section 5407,

1 *shall run from the date of commission of such judge as a*
2 *judge of the former ninth circuit.*

3 **SEC. 5409. APPLICATION TO CASES.**

4 *The following apply to any case in which, on the day*
5 *before the effective date of this subtitle, an appeal or other*
6 *proceeding has been filed with the former ninth circuit:*

7 *(1) Except as provided in paragraph (3), if the*
8 *matter has been submitted for decision, further pro-*
9 *ceedings with respect to the matter shall be had in the*
10 *same manner and with the same effect as if this sub-*
11 *title had not been enacted.*

12 *(2) If the matter has not been submitted for deci-*
13 *sion, the appeal or proceeding, together with the origi-*
14 *nal papers, printed records, and record entries duly*
15 *certified, shall, by appropriate orders, be transferred*
16 *to the court to which the matter would have been sub-*
17 *mitted had this subtitle been in full force and effect*
18 *at the time such appeal was taken or other proceeding*
19 *commenced, and further proceedings with respect to*
20 *the case shall be had in the same manner and with*
21 *the same effect as if the appeal or other proceeding*
22 *had been filed in such court.*

23 *(3) If a petition for rehearing en banc is pend-*
24 *ing on or after the effective date of this subtitle, the*
25 *petition shall be considered by the court of appeals to*

1 *which it would have been submitted had this subtitle*
2 *been in full force and effect at the time that the ap-*
3 *peal or other proceeding was filed with the court of*
4 *appeals.*

5 **SEC. 5410. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**
6 **AMONG CIRCUITS.**

7 *Section 291 of title 28, United States Code, is amended*
8 *by adding at the end the following:*

9 “(c) *The chief judge of the Ninth Circuit may, in the*
10 *public interest and upon request by the chief judge of the*
11 *Twelfth Circuit, designate and assign temporarily any cir-*
12 *cuit judge of the Ninth Circuit to act as circuit judge in*
13 *the Twelfth Circuit.*”

14 “(d) *The chief judge of the Twelfth Circuit may, in*
15 *the public interest and upon request by the chief judge of*
16 *the Ninth Circuit, designate and assign temporarily any*
17 *circuit judge of the Twelfth Circuit to act as circuit judge*
18 *in the Ninth Circuit.*”

19 **SEC. 5411. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**
20 **AMONG CIRCUITS.**

21 *Section 292 of title 28, United States Code, is amended*
22 *by adding at the end the following:*

23 “(f) *The chief judge of the United States Court of Ap-*
24 *peals for the Ninth Circuit may, in the public interest—*

1 “(1) upon request by the chief judge of the
2 *Twelfth Circuit, designate and assign 1 or more dis-*
3 *trict judges within the Ninth Circuit to sit upon the*
4 *Court of Appeals of the Twelfth Circuit, or a division*
5 *thereof, whenever the business of that court so re-*
6 *quires; and*

7 “(2) designate and assign temporarily any dis-
8 *trict judge within the Ninth Circuit to hold a district*
9 *court in any district within the Twelfth Circuit.*

10 “(g) The chief judge of the United States Court of Ap-
11 *peals for the Twelfth Circuit may in the public interest—*

12 “(1) upon request by the chief judge of the Ninth
13 *Circuit, designate and assign 1 or more district*
14 *judges within the Twelfth Circuit to sit upon the*
15 *Court of Appeals of the Ninth Circuit, or a division*
16 *thereof, whenever the business of that court so re-*
17 *quires; and*

18 “(2) designate and assign temporarily any dis-
19 *trict judge within the Twelfth Circuit to hold a dis-*
20 *trict court in any district within the Ninth Circuit.*

21 “(h) Any designations or assignments under subsection
22 *(f) or (g) shall be in conformity with the rules or orders*
23 *of the court of appeals of, or the district within, as applica-*
24 *ble, the circuit to which the judge is designated or as-*
25 *signed.”.*

1 **SEC. 5412. ADMINISTRATION.**

2 *The court of appeals for the ninth circuit as con-*
 3 *stituted on the day before the effective date of this subtitle*
 4 *may take such administrative action as may be required*
 5 *to carry out this subtitle and the amendments made by this*
 6 *subtitle. Such court shall cease to exist for administrative*
 7 *purposes 2 years after the date of the enactment of this Act.*

8 **SEC. 5413. EFFECTIVE DATE.**

9 *This subtitle and the amendments made by this sub-*
 10 *title shall take effect no later than December 31, 2006.*

11 **Subtitle E—Authorization of**
 12 **Appropriations**

13 **SEC. 5501. AUTHORIZATION OF APPROPRIATIONS.**

14 *There are authorized to be appropriated for each of*
 15 *fiscal years 2006 through 2009 such sums as are necessary*
 16 *to carry out subtitles B, C, and D of this title, including*
 17 *such sums as may be necessary to provide appropriate space*
 18 *and facilities for the judicial positions created by this title.*
 19 *Funds appropriated pursuant to this section in any fiscal*
 20 *year shall remain available until expended.*

21 **TITLE VI—COMMITTEE ON**
 22 **RESOURCES**

Subtitle A—Miscellaneous Amendments Relating to Mining

Sec. 6101. Fees for recordation and location of mining claims.

Sec. 6102. Patents for mining or mill site claims.

Sec. 6103. Mineral examinations for mining on certain lands.

Sec. 6104. Mineral development lands available for purchase.

Sec. 6105. National mining and minerals policy to encourage and promote the productive second use of lands.

Sec. 6106. Regulations.

Sec. 6107. Protection of national parks and wilderness areas.

Subtitle B—Disposal of Public Lands

CHAPTER 1—DISPOSAL OF CERTAIN PUBLIC LANDS IN NEVADA

Sec. 6201. Short title.

Sec. 6202. Definitions.

Sec. 6203. Land conveyance.

Sec. 6204. Disposition of proceeds.

CHAPTER 2—DISPOSAL OF CERTAIN PUBLIC LANDS IN IDAHO

Sec. 6211. Short title.

Sec. 6212. Definitions.

Sec. 6213. Land conveyance.

Sec. 6214. Disposition of proceeds.

Subtitle C—Oil shale

Sec. 6301. Oil shale and tar sands amendments.

Subtitle D—Sale and Conveyance of Federal Land

Sec. 6401. Collection of receipts from the sale of Federal lands.

1 ***Subtitle A—Miscellaneous***
2 ***Amendments Relating to Mining***

3 ***SEC. 6101. FEES FOR RECORDATION AND LOCATION OF***
4 ***MINING CLAIMS.***

5 (a) *DIMENSIONS OF MINING CLAIMS.*—*Section 2320 of*
6 *the Revised Statutes (30 U.S.C. 23) is amended by striking*
7 *the second and third sentences and inserting the following:*
8 *“A mining claim located after May 10, 1872, whether lo-*
9 *cated by one or more persons, and including a claim located*
10 *before exposure of the vein or lode, may equal, but shall*
11 *not exceed, 1,500 feet in length along the vein or lode, and*
12 *shall extend no more than 300 feet on each side of the mid-*
13 *dle of the vein at the surface, nor shall any claim be limited*

1 *by any mining regulation to less than 25 feet on each side*
 2 *of the middle of the vein at the surface, except where adverse*
 3 *rights existing on May 10, 1872, render such limitation*
 4 *necessary.”.*

5 *(b) RIGHTS SECURED BY CLAIM MAINTENANCE*
 6 *FEEES.—Section 2322 of the Revised Statutes (30 U.S.C. 26)*
 7 *is amended by inserting “(a) RIGHTS OF LOCATORS, GEN-*
 8 *ERALLY.—” before the first sentence, and by adding at the*
 9 *end the following:*

10 *“(b) RIGHTS SECURED BY MAINTENANCE FEES.—*
 11 *Prior to issuance of a patent, timely payment of the claim*
 12 *maintenance fee secures the rights of the holder of a mining*
 13 *claim, mill site, or tunnel site, both prior to and after dis-*
 14 *covery of valuable mineral deposits, to use and occupy pub-*
 15 *lic lands under the provisions of the general mining law*
 16 *of the United States (as that term is defined in section 2324*
 17 *of the Revised Statutes) for mineral prospecting, explo-*
 18 *ration, development, mining, milling, and processing of*
 19 *minerals, reclamation of the claimed lands, and uses rea-*
 20 *sonably incident thereto. Except for the location fee and the*
 21 *maintenance fees in section 2324 of the Revised Statutes*
 22 *(30 U.S.C. 28), and the patent prices in sections 2325,*
 23 *2326, 2333, and 2337 of the Revised Statutes (30 U.S.C.*
 24 *29, 30, 37, and 42), no other fees or fair market value as-*
 25 *sessments shall be applied to prospecting, exploration, devel-*

1 *opment, mining, processing, or reclamation, and uses rea-*
 2 *sonably incident thereto.”.*

3 (c) *PATENT REQUIREMENTS.*—Section 2325 of the Re-
 4 *vised Statutes (30 U.S.C. 29) is amended—*

5 (1) *in the second sentence by striking “, or at*
 6 *any time” and inserting “shall include a processing*
 7 *fee of \$2,500 for the first claim or site, and \$50 for*
 8 *each additional claim contained therein, and at any*
 9 *time”;* and

10 (2) *in the fourth sentence by inserting “and if*
 11 *the applicant has complied with the law of discovery”*
 12 *after “publication”.*

13 (d) *MINING DISTRICT REGULATIONS BY MINERS.*—
 14 *Section 2324 of the Revised Statutes (30 U.S.C. 28) is*
 15 *amended to read as follows:*

16 “*SEC. 2324. (a) AUTHORITY TO MAKE REGULA-*
 17 *TIONS.—The miners of each mining district may make reg-*
 18 *ulations not in conflict with the laws of the United States,*
 19 *or with the laws of the State or Territory in which the dis-*
 20 *trict is situated, governing the location, manner of record-*
 21 *ing, amount of work necessary to hold possession of a min-*
 22 *ing claim, subject to the following requirements:*

23 (1) *The location must be distinctly marked on*
 24 *the ground so that its boundaries can be readily*
 25 *traced.*

1 “(2) *All records of mining claims made after*
2 *May 10, 1872, shall contain the name or names of the*
3 *locators, the date of the location, and such a descrip-*
4 *tion of the claim or claims located by reference to*
5 *some natural object or permanent monument as will*
6 *identify the claim.*

7 “(b) *RECORDATION OF MINING CLAIMS AND ABANDON-*
8 *MENT.—The locator of an unpatented lode or placer mining*
9 *claim, mill site, or tunnel site located after October 21,*
10 *1976, pursuant to the general mining law of the United*
11 *States shall, within 90 days after the date of location of*
12 *such claim, file in the office designated by the Secretary*
13 *of the Interior a copy of the official record of the notice*
14 *of location or certificate of location, including a description*
15 *of the location of the mining claim or mill or tunnel site*
16 *sufficient to locate the claimed lands on the ground. The*
17 *failure to file such instruments as required by this sub-*
18 *section is deemed conclusively to constitute an abandonment*
19 *of the mining claim, mill site, or tunnel site by the owner.*
20 *Such recordation by itself shall not render valid any claim*
21 *that would not be otherwise valid under applicable law.*

22 “(c) *LOCATION FEE.—Notwithstanding any other pro-*
23 *vision of law, for every mining claim, mill site, or tunnel*
24 *site located after the date of the enactment of this subsection*
25 *pursuant to the general mining law of the United States,*

1 *the locator shall, at the time the location notice is recorded*
2 *pursuant to subsection (b), pay a location fee of \$100 per*
3 *claim. This fee shall be in addition to the first year's claim*
4 *maintenance fee required by subsection (d). Payment of the*
5 *location fee required by this subsection and the maintenance*
6 *fee required by subsection (d) secures to the locator the right*
7 *to use and occupy the public lands for purposes of the gen-*
8 *eral mining law of the United States.*

9 “(d) *SCHEDULE OF CLAIM MAINTENANCE FEES.—(1)*
10 *The holder of each unpatented mining claim, mill site, or*
11 *tunnel site located pursuant to the general mining law of*
12 *the United States on or after the date of the enactment of*
13 *this subsection shall pay to the Secretary of the Interior,*
14 *on or before September 1 of each year, a claim maintenance*
15 *fee per claim. Except as provided in paragraph (2), such*
16 *claim maintenance fee shall be paid in the following*
17 *amounts:*

18 “(A) *\$35 per claim for each of the first through*
19 *fifth maintenance years, beginning with the year the*
20 *claim was recorded.*

21 “(B) *\$70 per claim for each of the sixth through*
22 *tenth maintenance years.*

23 “(C) *\$125 per claim for each of the eleventh*
24 *through fifteenth maintenance years.*

1 “(D) \$150 per claim for the sixteenth mainte-
2 nance year and each year thereafter.

3 “(2) Notwithstanding any other provision of law, for
4 each unpatented mining claim located after the date of en-
5 actment of this subsection pursuant to the general mining
6 law of the United States from which minerals are produced,
7 and in lieu of the fee otherwise required by paragraph (1),
8 the holder shall pay to the Secretary of the Interior an an-
9 nual maintenance fee of \$200 per claim.

10 “(3) The holder of each unpatented mining claim, mill
11 site, or tunnel site located pursuant to the general mining
12 law of the United States before the date of enactment of
13 this subsection shall pay to the Secretary of the Interior
14 for such claim—

15 “(A) except as provided in subparagraph (B),
16 the claim maintenance fee that applied before such
17 date of enactment; or

18 “(B) the claim maintenance fee that applies
19 under paragraph (1) or (2), based on the number of
20 years since the original location of the claim, if before
21 the date the payment is due the claim holder—

22 “(i) notifies the Secretary; and

23 “(ii) pays to the Secretary a transfer fee of
24 \$100.

1 “(e) *ADJUSTMENT OF CLAIM MAINTENANCE FEES.*—
2 *Claim maintenance fees under subsection (d) shall not be*
3 *subject to adjustment.*

4 “(f) *WORK REQUIREMENT.*—(1) *The holder of each*
5 *unpatented mining claim, mill site, or tunnel site located*
6 *pursuant to the general mining law of the United States*
7 *after the date of enactment of this subsection, and any hold-*
8 *er of a claim that has transferred such claim to the claim*
9 *maintenance fee schedule under subsection (d), shall conduct*
10 *physical evaluation and development of the claim or of any*
11 *contiguous block of claims of which the claim is a part.*
12 *Exploration and mining activities conducted pursuant to*
13 *a notice, approved plan of operations, or, in the case of*
14 *split estate lands, a comparable State or county notice or*
15 *approval, demonstrates compliance with this section.*

16 “(2) *If physical evaluation of the claim is not carried*
17 *out in accordance with paragraph (1) before the end of the*
18 *fifth, tenth, or fifteenth maintenance year (beginning with*
19 *the maintenance year in which the claim is filed), respec-*
20 *tively, the claim holder shall be required to pay in the next*
21 *maintenance year the location fee described in subsection*
22 *(c), in addition to the annual claim maintenance fee re-*
23 *quired to be paid for the next maintenance year.*

24 “(g) *WAIVER OF CLAIM MAINTENANCE FEE ADJUST-*
25 *MENTS AND WORK REQUIREMENT.*—*If a delay in meeting*

1 *the work requirements under subsection (f) is the result of*
2 *pending administrative proceedings, rights-of-way disputes,*
3 *or litigation concerning issuance or validity of any permit*
4 *or authorization required under Federal, State, or local law*
5 *for physical evaluation and development of the claim—*

6 “(1) *any increase in the claim maintenance fee*
7 *that would otherwise apply under subsection (d) and*
8 *the work requirements under subsection (f) shall be*
9 *suspended for the claim; and*

10 “(2) *claim maintenance fees required to be paid*
11 *each year for the claim shall be the same as the fee*
12 *that applied for the year in which the delay first oc-*
13 *curred, and no additional location fee will be owed.*

14 “(h) *TIME OF PAYMENT.—The claim maintenance fee*
15 *required under subsection (d) for any maintenance year*
16 *shall be paid before the commencement of the maintenance*
17 *year, except that, for the maintenance year in which the*
18 *location is made the locator shall pay the claim mainte-*
19 *nance fee and the location fee imposed under subsection (c)*
20 *at the time the location notice is recorded with the Bureau*
21 *of Land Management. The Director of the Bureau of Land*
22 *Management, after consultation with the Governor of Alas-*
23 *ka and by not later than 1 year after the date of enactment*
24 *of this subsection, may establish a claim maintenance fee*

1 *filing date for Alaska claim holders that is not later than*
2 *60 days after September 1.*

3 “(i) *SMALL MINER CLAIM MAINTENANCE FEE.—(1) In*
4 *the case of a claim for which the holder certifies in writing*
5 *to the Secretary that, on the date the payment of any claim*
6 *maintenance fee under this section was due, the claim hold-*
7 *er and all related parties held not more than 10 mining*
8 *claims, mill sites, or tunnel sites, or any combination there-*
9 *of, on public lands—*

10 “(A) *the claim maintenance fee shall be \$25*
11 *per claim per year for the life of the claim or site*
12 *held by the claim holder; and*

13 “(B) *subsection (f) shall not apply.*

14 “(2) *In this subsection:*

15 “(A) *With respect to any claim holder, the term*
16 *‘related party’ means—*

17 “(i) *the spouse and dependent children (as*
18 *defined in section 152 of the Internal Revenue*
19 *Code of 1986 (26 U.S.C. 152), as in effect on the*
20 *date of the enactment of this paragraph of the*
21 *claim holder; and*

22 “(ii) *a person who controls, is controlled by,*
23 *or is under common control with the claim hold-*
24 *er.*

1 “(B) *The terms ‘control’, ‘controls’, and ‘con-*
2 *trolled’ include actual control, legal control, and the*
3 *power to exercise control, through or by common di-*
4 *rectors, officers, stockholders, a voting trust, or a hold-*
5 *ing company or investment company, or any other*
6 *means.*

7 “(j) *FAILURE TO PAY.—(1) Failure to pay a claim*
8 *maintenance fee or a location fee for an unpatented mining*
9 *claim as required by this section shall subject an*
10 *unpatented mining claim, mill site, or tunnel site to for-*
11 *feiture by the claim holder as provided in this subsection.*

12 “(2) *The Secretary of the Interior shall provide the*
13 *claim holder with notice of the failure and the opportunity*
14 *to cure within 45 calendar days after the claim holder’s*
15 *receipt of the notice.*

16 “(3) *The claim holder must, within such 45-day pe-*
17 *riod, pay twice the amount of maintenance fee that would*
18 *otherwise have been required to be timely paid. The Sec-*
19 *retary of the Interior shall specify the amount that must*
20 *be paid in the notice under paragraph (2).*

21 “(4) *Failure by the claim holder to make a timely and*
22 *proper payment in the amount specified in the notice by*
23 *the Secretary of the Interior, within 45 days after the claim*
24 *holder’s receipt of the notice, shall constitute a forfeiture*

1 of the mining claim, mill site, or tunnel site by the claim
2 holder by operation of law.

3 “(k) *FAILURE OF CO-OWNER TO CONTRIBUTE.*—Upon
4 the failure of any one of several co-owners of a claim to
5 contribute the co-owner’s proportion of any claim mainte-
6 nance fee required by this section, the co-owners who have
7 paid the claim maintenance fee, at the expiration of the
8 year in which any unpaid amount was due, may give such
9 delinquent co-owner personal notice in writing or notice by
10 publication in the newspaper of record for the county in
11 which the land that is subject to the claim or mill site is
12 located, at least once a week for 90 days. If at the expiration
13 of such 90-day period such delinquent co-owner fails or re-
14 fuses to contribute the co-owner’s proportion of the claim
15 maintenance fee required by this section, the co-owner’s in-
16 terest in the claim shall become the property of the other
17 co-owners who have paid the claim maintenance fee. The
18 co-owners who have assumed the interest in the claims shall
19 notify the Secretary of the Interior within 30 days of the
20 assumption.

21 “(l) *OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTE-*
22 *NANCE FEES UNDER ENERGY POLICY ACT OF 1992.*—This
23 section shall not apply to any oil shale claim for which
24 a fee is required to be paid under section 2511(e)(2) of the
25 *Energy Policy Act of 1992 (30 U.S.C. 242).*

1 “(m) *GENERAL MINING LAW OF THE UNITED STATES*
2 *DEFINED; RULE OF CONSTRUCTION.*—(1) *In this section*
3 *the term ‘general mining law of the United States’ means*
4 *the provisions of law codified in chapters 2, 12, 12A, 15,*
5 *and 16 of title 30, United States Code, and in sections 161*
6 *and 162 of such title.*

7 “(2) *Subsections (b) and (c) shall be construed in ac-*
8 *cordance with judicial decisions under section 314 of the*
9 *Federal Land Policy and Management Act of 1976, as in*
10 *effect before the enactment of those subsections.”.*

11 *(e) CONFORMING AMENDMENTS.*—

12 (1) *The Federal Land Policy and Management*
13 *Act of 1976 is amended—*

14 (A) *by striking section 314 (43 U.S.C.*
15 *1744);*

16 (B) *in the table of contents preceding title*
17 *I by striking the item relating to section 314;*
18 *and*

19 (C) *in section 302(a) by striking “section*
20 *314, section 603,” and inserting “section 603”.*

21 (2) *Section 22 of the Alaska Native Claims Set-*
22 *tlement Act is amended by striking “and section 314*
23 *of the Federal Land Policy and Management Act of*
24 *1976 (43 U.S.C. 1744)”.*

1 (3) *Section 31(f) of the Mineral Leasing Act (30*
2 *U.S.C. 188(f)) is amended by striking “section 314 of*
3 *the Federal Land Policy and Management Act of*
4 *1976 (43 U.S.C. 1744)” and inserting “subsections*
5 *(b) and (c) of section 2320 of the Revised Statutes (30*
6 *U.S.C. 23)”.*

7 (4) *Section 2511(e) of the Energy Policy Act of*
8 *1992 (30 U.S.C. 242(e)) is amended by striking the*
9 *last sentence.*

10 **SEC. 6102. PATENTS FOR MINING OR MILL SITE CLAIMS.**

11 (a) *REPEAL OF LIMITATION ON USE OF FUNDS FOR*
12 *APPLICATIONS FOR PATENT.—Section 408(a) of the De-*
13 *partment of the Interior, Environment, and Related Agen-*
14 *cies Appropriations Act, 2006 (Public Law 109–54) is re-*
15 *pealed.*

16 (b) *PAYMENT AMOUNTS.—The Revised Statutes are*
17 *amended—*

18 (1) *in section 2325 (30 U.S.C. 29) by striking*
19 *“five dollars per acre” and inserting “\$1,000 per acre*
20 *or fair market value, whichever is greater”;*

21 (2) *in section 2326 (30 U.S.C. 30) by striking*
22 *“five dollars per acre” and inserting “\$1,000 per acre*
23 *or fair market value, whichever is greater;”;*

24 (3) *in section 2333 (30 U.S.C. 37)—*

1 (A) by striking “five dollars per acre” and
2 inserting “\$1,000 per acre or fair market value,
3 whichever is greater;”; and

4 (B) by striking “two dollars and fifty cents
5 per acre” and inserting “\$1,000 per acre or fair
6 market value, whichever is greater”;

7 (4) in section 2337 (30 U.S.C. 42)—

8 (A) in subsection (a) by striking “made at
9 the same rate” and all that follows through the
10 end of that sentence and inserting “at the rate
11 of \$1,000 per acre or fair market value, which-
12 ever is greater.”; and

13 (B) in subsection (b) by striking “made at
14 the rate” and all that follows through the end of
15 that sentence and inserting “at the rate of \$1,000
16 per acre or fair market value, whichever is great-
17 er.”; and

18 (5) in section 2325 (30 U.S.C. 29) by adding at
19 the end the following: “For purposes of this section
20 and sections 2326, 2333, and 2337 of the Revised
21 Statutes, fair market value for the patenting of min-
22 ing claims or mill sites shall be determined by ap-
23 praisals prepared by an appraiser certified or quali-
24 fied under applicable professional criteria or State
25 law, in accordance with the Uniform Appraisal

1 *Standards for Federal Land Acquisitions and the*
2 *Uniform Standards of Professional Appraisal Prac-*
3 *tice, submitted by the applicant for a patent to the*
4 *Secretary of the Interior upon application for patent,*
5 *that is completed within 120 days prior to submission*
6 *of the application for patent.”.*

7 (c) *MINERAL DEVELOPMENT WORK REQUIRE-*
8 *MENTS.—Section 2325 of the Revised Statutes (30 U.S.C.*
9 *29) is amended—*

10 (1) *by striking “five hundred dollars’ ” and in-*
11 *serting “\$7,500”; and*

12 (2) *by striking “labor has been expended” and*
13 *inserting “mineral development work has been per-*
14 *formed”.*

15 (d) *PATENT APPLICANTS IN LIMBO.—If the holder of*
16 *an unpatented mining claim or mill site submitted an ap-*
17 *plication for a mineral patent and paid the patent service*
18 *charges required by regulation at the time the application*
19 *was submitted, and the Secretary of the Interior did not*
20 *complete all actions to process the application before April*
21 *26, 1996, the holder of such claim may, at the holder’s elec-*
22 *tion, have such application processed under rules that ap-*
23 *plied before the date of the enactment of this Act.*

24 (e) *ALTERNATIVE VALUABLE MINERAL DEPOSIT CRI-*
25 *TERIA.—Section 2325 of the Revised Statutes is further*

1 amended by inserting “(a) *MANNER FOR OBTAINING PAT-*
2 *ENT, GENERALLY.—*” before the first sentence, and by add-
3 *ing at the end the following:*

4 “(b) *ALTERNATIVE VALUABLE MINERAL DEPOSIT CRI-*
5 *TERIA.—*

6 “(1) *CLAIMS SUBJECT TO ONGOING ACTIVI-*
7 *TIES.—*The holder of an unpatented mining claim or
8 *mill site who is conducting mining activities that*
9 *meet the definition of a mine under section 3(h) of the*
10 *Federal Mine Safety and Health Act of 1972 (30*
11 *U.S.C. 802(h)) and whose activities with respect to*
12 *that claim or site are described in section 4 of such*
13 *Act (30 U.S.C. 803) may receive a patent for any*
14 *unpatented mining claims on which mining activities*
15 *are occurring or any mill sites, within the boundaries*
16 *of an approved plan of operations or a comparable*
17 *State or county approval. Upon confirmation by the*
18 *Secretary that minerals being mined are locatable in*
19 *accordance with Federal law and that actual sales of*
20 *minerals have taken place, all Federal lands within*
21 *those boundaries are eligible for patent upon compli-*
22 *ance with this section and sections 2327 and 2329 of*
23 *the Revised Statutes (30 U.S.C. 34, 35).*

24 “(2) *DISCLOSED CLAIMS AND MILL SITES.—*The
25 *holder of an unpatented mining claim or mill site*

1 *whose proven and probable reserves are publicly dis-*
2 *closed in compliance with the Securities Act of 1933*
3 *(15 U.S.C. 77a) or the Securities Exchange Act of*
4 *1934 (15 U.S.C. 78a) may receive a patent for any*
5 *such unpatented mining claim containing such re-*
6 *serves or for any mill site within the boundaries of*
7 *a plan of operations or a comparable State or county*
8 *approval for such reserves. All Federal lands within*
9 *those boundaries are eligible for patent upon compli-*
10 *ance with this section and sections 2327 and 2329 of*
11 *the Revised Statutes (30 U.S.C. 34, 35).*

12 “(c) *MINERAL EXAMINATIONS.*—

13 “(1) *IN GENERAL.*—*In order to process patent*
14 *applications in a timely and responsible manner,*
15 *upon the request of a patent applicant, the Secretary*
16 *of the Interior shall allow the applicant to fund a*
17 *qualified third-party examiner from a list main-*
18 *tained by the Bureau of Land Management to con-*
19 *duct a mineral examination of the mining claims or*
20 *mill sites contained in a patent application as set*
21 *forth in this section and sections 2333 and 2337 of*
22 *the Revised Statutes (30 U.S.C. 37, 42). The Bureau*
23 *of Land Management shall have the sole responsibility*
24 *to maintain the list of qualified third-party exam-*
25 *iners.*

1 “(2) *TRAINING.*—*The Director of the Bureau of*
2 *Land Management shall provide training in the con-*
3 *duct of mineral examinations to qualified individ-*
4 *uals. The Director may charge fees to cover the costs*
5 *of the training.*

6 “(3) *QUALIFIED THIRD-PARTY EXAMINER DE-*
7 *FINED.*—*In this subsection the term ‘qualified third-*
8 *party examiner’ means a person who is a registered*
9 *geologist or registered professional mining engineer li-*
10 *censed to practice within the State in which the*
11 *claims are located.*

12 “(d) *DISPOSITION OF PROCEEDS.*—*The gross proceeds*
13 *of conveyances of land under this section and sections 2319,*
14 *2330, 2332, 2333, and 2337 of the Revised Statutes (30*
15 *U.S.C. 22, 36, 37, 38, 42) shall be used as follows:*

16 “(1) *10 percent shall be deposited into the Fed-*
17 *eral Energy and Mineral Resource Professional Devel-*
18 *opment Fund.*

19 “(2) *20 percent shall be available to the Sec-*
20 *retary of the Army for use, through the Corps of En-*
21 *gineers, for the Restoration of Abandoned Mine Sites*
22 *Program and section 560 of the Water Resources De-*
23 *velopment Act of 1999.*

24 “(3) *70 percent shall be deposited into the Gen-*
25 *eral Fund of the Treasury.*

1 “(e) *ISSUING PATENTS.*—If no adverse claim has been
 2 filed with the register and the receiver of the proper land
 3 office at the expiration of the 60-day period beginning on
 4 the date of publication of the notice that an application
 5 for mineral patent has been filed under section 2325, 2333
 6 and 2337 of the Revised Statutes (30 U.S.C. 29, 37, 42),
 7 the Secretary shall issue the patent not later than 24
 8 months after the date on which the application for patent
 9 was filed.

10 “(f) *SMALL MINER PATENT ADJUDICATION AND MIN-*
 11 *ERAL DEVELOPMENT WORK REQUIREMENTS.*—The holder
 12 of 10 claims or less who applies for a mineral patent under
 13 this section or a direct purchase under section 2319 of the
 14 Revised Statutes (30 U.S.C. 22) shall pay one-fifth of the
 15 processing fees and perform one-fifth of the mineral develop-
 16 ment work required under this section and section 2319 (30
 17 U.S.C. 22).”.

18 **SEC. 6103. MINERAL EXAMINATIONS FOR MINING ON CER-**
 19 **TAIN LANDS.**

20 Section 302 of the Federal Land Policy and Manage-
 21 ment Act of 1976 (43 U.S.C. 1732) is amended by adding
 22 at the end the following:

23 “(e) The Secretary shall not require a mineral exam-
 24 ination report, otherwise required to be prepared under reg-
 25 ulations promulgated pursuant to this Act, to approve a

1 *plan of operations under such regulations for mining*
2 *claims and mill sites located on withdrawn lands if such*
3 *mining claims, mill sites, and blocks of such mining claims*
4 *and mill sites are contiguous to patented or unpatented*
5 *mining claims or mill sites where mineral development ac-*
6 *tivities, including mining, have been conducted as author-*
7 *ized by law or regulation.”.*

8 **SEC. 6104. MINERAL DEVELOPMENT LANDS AVAILABLE FOR**
9 **PURCHASE.**

10 *Section 2319 of the Revised Statutes (30 U.S.C. 22)*
11 *is amended—*

12 *(1) by inserting “(a) LANDS OPEN TO PUR-*
13 *CHASE BY CITIZENS.—” before the first sentence; and*

14 *(2) by adding at the end the following:*

15 *“(b) AVAILABILITY FOR PURCHASE.—Notwithstanding*
16 *any other provision of law and in compliance with sub-*
17 *section (c), the Secretary of the Interior shall make mineral*
18 *deposits and the lands that contain them, including lands*
19 *in which the valuable mineral deposit has been depleted,*
20 *available for purchase to facilitate sustainable economic de-*
21 *velopment. This subsection shall not apply with respect to*
22 *any unit of the National Park System, National Wildlife*
23 *Refuge System, National Wild and Scenic Rivers System,*
24 *or National Trails System, or to any National Conservation*
25 *Area, any National Recreation Area, any National Monu-*

1 *ment, or any unit of the National Wilderness Preservation*
2 *System.*

3 “(c) *APPLICATION.*—*The holder of mining claims, mill*
4 *sites, and blocks of such mining claims and mill sites con-*
5 *tiguous to patented or unpatented mining claims or mill*
6 *sites where mineral development activities, including min-*
7 *ing, have been conducted as authorized by law or regulation*
8 *and on which mineral development work has been per-*
9 *formed may apply to purchase Federal lands that are sub-*
10 *ject to the claims. The filing of the proper application shall*
11 *include such processing fees as are required by section 2325*
12 *of the Revised Statutes (30 U.S.C. 29). The applicant or*
13 *applicants, or their predecessors must present evidence of*
14 *mineral development work performed on the Federal lands*
15 *identified and submitted for purchase. Mineral development*
16 *work upon aggregation must average not less than \$7,500*
17 *per mining claim or mill site within the Federal lands*
18 *identified and applied for.*

19 “(d) *LAND SURVEYS.*—*For the purpose of this section,*
20 *and notwithstanding section 2334 of the Revised Statutes*
21 *(30 U.S.C. 39), land surveys of the Federal lands applied*
22 *for shall be paid for by the applicant and shall be completed*
23 *either by a land surveyor registered in the State where the*
24 *land is situated, or by such a surveyor also designated by*
25 *the Bureau of Land Management as a mineral surveyor,*

1 *if such mineral surveyors are available, willing, and able*
2 *to complete such surveys without delay at a cost comparable*
3 *to the charges of ordinary registered land surveyors.*

4 “(e) *DEADLINE FOR CONVEYANCE; PRICE.—Notwith-*
5 *standing any other provision of law, and not later than*
6 *one year after the date of the approval of any survey re-*
7 *quired under subsection (d), the Secretary of the Interior*
8 *shall convey to the applicant, in return for a payment of*
9 *\$1,000 per acre or fair market value, whichever is greater,*
10 *all right, title, and interest in and to the Federal land, sub-*
11 *ject to valid existing rights and the terms and conditions*
12 *of the Act of August 30, 1890 (26 Stat. 391). For purposes*
13 *of this subsection, fair market value for mineral develop-*
14 *ment lands available for purchase shall be determined by*
15 *appraisals prepared by an appraiser certified or qualified*
16 *under applicable professional criteria or State law, in ac-*
17 *cordance with the Uniform Appraisal Standards for Fed-*
18 *eral Land Acquisitions and the Uniform Standards of Pro-*
19 *fessional Appraisal Practice, submitted by the applicant to*
20 *the Secretary of the Interior upon application for purchase,*
21 *that is completed within 120 days prior to submission of*
22 *the application. Fair market value for the interest in the*
23 *land owned by the United States shall be exclusive of, and*
24 *without regard to, the mineral deposits in the land or the*
25 *use of such land for mineral activities.*

1 “(f) *ENVIRONMENTAL LIABILITY.*—Notwithstanding
2 *any other Federal, State or local law, the United States*
3 *shall not be responsible for—*

4 “(1) *investigating or disclosing the condition of*
5 *any property to be conveyed under this section; and*

6 “(2) *environmental remediation, waste manage-*
7 *ment, or environmental compliance activities arising*
8 *from its ownership, occupancy, or management of*
9 *land and interests therein conveyed under this section*
10 *with respect to conditions existing at or on the land*
11 *at the time of the conveyance.*

12 “(g) *MINERAL DEVELOPMENT WORK DEFINED.*—In
13 *this section the term ‘mineral development work’ means geo-*
14 *logic, geochemical or geophysical surveys; road building; ex-*
15 *ploration drilling, trenching, and exploratory sampling by*
16 *any other means; construction of underground workings for*
17 *the purpose of conducting exploration; mine development*
18 *work; mineral production from underground or surface*
19 *mines; environmental baseline studies; construction of envi-*
20 *ronmental protection and monitoring systems; environ-*
21 *mental reclamation; construction of power and water dis-*
22 *tribution facilities; engineering, metallurgical, geotechnical,*
23 *and economic feasibility studies; land surveys; and any*
24 *other work reasonably incident to mineral development.”.*

1 **SEC. 6105. NATIONAL MINING AND MINERALS POLICY TO**
2 **ENCOURAGE AND PROMOTE THE PRODUC-**
3 **TIVE SECOND USE OF LANDS.**

4 *Section 101 of the Mining and Minerals Policy Act*
5 *of 1970 (30 U.S.C. 21a) is amended—*

6 *(1) in the first sentence—*

7 *(A) in clause (2) by inserting “including*
8 *through remining where appropriate” after*
9 *“needs,”;*

10 *(B) in clause (3) by striking “and” after*
11 *the comma at the end; and*

12 *(C) by striking the period at the end and*
13 *inserting the following: “, and (5) facilitate the*
14 *productive second use of lands used for mining*
15 *and energy production.”;*

16 *(2) in the second sentence by striking “oil shale*
17 *and uranium” and inserting “oil shale, and ura-*
18 *nium, whether located onshore or offshore”;* and

19 *(3) in the third sentence—*

20 *(A) by striking “the Secretary of the Inte-*
21 *rior” and inserting “the head of each Federal de-*
22 *partment and of each independent agency”;* and

23 *(B) by striking “his”.*

1 **SEC. 6106. REGULATIONS.**

2 *The Secretary of the Interior shall issue final regula-*
 3 *tions implementing this subtitle by not later than 180 days*
 4 *after the date of the enactment of this Act.*

5 **SEC. 6107. PROTECTION OF NATIONAL PARKS AND WILDER-**
 6 **NESS AREAS.**

7 *Subject to valid existing rights, nothing in sections*
 8 *6202, 6203, 6204, 6205, and 6206 of this subtitle shall be*
 9 *construed as affecting any lands within the boundary of*
 10 *any unit of the National Park System, National Wildlife*
 11 *Refuge System, National Wild and Scenic Rivers System,*
 12 *or National Trails System, or any National Conservation*
 13 *Area, any National Recreation Area, any National Monu-*
 14 *ment, or any unit of the National Wilderness Preservation*
 15 *System as of the date of the enactment of this Act.*

16 ***Subtitle B—Disposal of Public***
 17 ***Lands***

18 ***CHAPTER 1—DISPOSAL OF CERTAIN***
 19 ***PUBLIC LANDS IN NEVADA***

20 **SEC. 6201. SHORT TITLE.**

21 *This chapter may be cited as the “Northern Nevada*
 22 *Sustainable Development in Mining Act”.*

23 **SEC. 6202. DEFINITIONS.**

24 *In this chapter:*

25 (1) *CLAIMANT.—The term “Claimant” means*
 26 *Coeur Rochester, Inc.*

1 (2) *COUNTY.*—*The term “County” means Per-*
2 *shing County, Nevada.*

3 (3) *GENERAL MINING LAW.*—*The term “general*
4 *mining law” means the provisions of law codified in*
5 *chapters 2, 12, 12A, 15, and 16 of title 30, United*
6 *States Code, and in sections 161 and 162 of such*
7 *title.*

8 (4) *SECRETARY.*—*The term “Secretary” means*
9 *the Secretary of the Interior.*

10 **SEC. 6203. LAND CONVEYANCE.**

11 (a) *CONVEYANCE OF LAND.*—*Notwithstanding any*
12 *other provision of law, and not later than 90 days after*
13 *the date of the enactment of this Act, the Secretary shall*
14 *convey to the Claimant, in return for a payment of \$500*
15 *per acre, all right, title, and interest, subject to the terms*
16 *and conditions of subsection (c), in the approximately 7,000*
17 *acres of Federal lands subject to Claimant’s mining claims*
18 *maintained under the general mining law and depicted on*
19 *the Rochester Sustainable Development Project map on file*
20 *with the Committee on Resources of the House of Represent-*
21 *atives.*

22 (b) *EXEMPTION FROM REVIEW, ETC.*—*Any convey-*
23 *ance of land under this chapter is not subject to review,*
24 *consultation, or approval under any other Federal law.*

25 (c) *TERMS AND CONDITIONS OF CONVEYANCE.*—

1 (1) *NO IMPACT ON LEGAL OBLIGATIONS.*—Con-
2 *veyance of the lands pursuant to subsection (a) shall*
3 *not affect Claimant’s legal obligations to comply with*
4 *applicable Federal mine closure or mine land rec-*
5 *lamation laws, or with any other applicable Federal*
6 *or State requirement relating to closure of the Roch-*
7 *ester Mine and use of the land comprising such mine,*
8 *including any requirement to prepare any environ-*
9 *mental impact statement under the National Envi-*
10 *ronmental Policy Act of 1969. Federal reclamation*
11 *and closure obligations shall not be construed to re-*
12 *quire removal of infrastructure identified by Claim-*
13 *ant as being usable by a post-mining land use.*

14 (2) *TITLE TO MATERIALS AND MINERALS.*—Not-
15 *withstanding any other provision of law, Claimant*
16 *shall own and have title to all spent ore, waste rock*
17 *and tailings, and other materials located on lands*
18 *conveyed pursuant to subsection (a).*

19 (3) *VALID EXISTING RIGHTS.*—All lands con-
20 *veyed pursuant to subsection (a) shall be subject to*
21 *valid existing rights existing as of the date of transfer*
22 *of title, and Claimant shall succeed to the rights and*
23 *obligations of the United States with respect to any*
24 *mining claim, mill site claim, lease, right-of-way,*

1 *permit, or other valid existing right to which the*
2 *property is subject.*

3 (4) *ENVIRONMENTAL LIABILITY.—Notwith-*
4 *standing any other Federal, State or local law, the*
5 *United States shall not be responsible for—*

6 (A) *investigating or disclosing the condition*
7 *of any property to be conveyed under this chap-*
8 *ter; and*

9 (B) *environmental remediation, waste man-*
10 *agement, or environmental compliance activities*
11 *arising from its ownership, occupancy, or man-*
12 *agement of land and interests therein conveyed*
13 *under this chapter with respect to conditions ex-*
14 *isting at or on the land at the time of the con-*
15 *veyance.*

16 **SEC. 6204. DISPOSITION OF PROCEEDS.**

17 *The gross proceeds of conveyances of land under this*
18 *chapter shall be used as follows:*

19 (1) *Such sums as are necessary shall be used to*
20 *cover 100 percent of the administrative costs, not to*
21 *exceed \$20,000, incurred by the Nevada State Office*
22 *and the Winnemucca Field Office of the Bureau of*
23 *Land Management in conducting the conveyance*
24 *under this chapter.*

1 (2) \$500,000 shall be paid directly to the State
2 of Nevada for use in the State's abandoned mined
3 land program.

4 (3) \$100,000 shall be paid directly to Pershing
5 County, Nevada.

6 (4) Proceeds remaining after the payments pur-
7 suant to paragraphs (1) through (3) shall be deposited
8 in the general fund of the Treasury.

9 **CHAPTER 2—DISPOSAL OF CERTAIN**
10 **PUBLIC LANDS IN IDAHO**

11 **SEC. 6211. SHORT TITLE.**

12 This chapter may be cited as the “Central Idaho Sus-
13 tainable Development in Mining Act”.

14 **SEC. 6212. DEFINITIONS.**

15 In this chapter:

16 (1) **CLAIMANT.**—The term “Claimant” means
17 TDS LLC, an affiliated company of L&W Stone Cor-
18 poration.

19 (2) **COUNTY.**—The term “County” means Custer
20 County, Idaho.

21 (3) **GENERAL MINING LAW.**—The term “general
22 mining law” means the provisions of law codified in
23 chapters 2, 12A, 15, and 16 of title 30, United States
24 Code, and in sections 161 and 162 of such title.

1 (4) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of the Interior.*

3 **SEC. 6213. LAND CONVEYANCE.**

4 (a) *CONVEYANCE OF LAND.*—*Notwithstanding any*
5 *other provision of law, and not later than 90 days after*
6 *the date of the enactment of this Act, the Secretary shall*
7 *convey to the Claimant, in return for a payment of \$1,000*
8 *per acre, all right, title, and interest, subject to the terms*
9 *and conditions of subsection (c), in the approximately 519.7*
10 *acres of Federal lands subject to Claimant’s mining claims*
11 *maintained under the general mining law and depicted as*
12 *“proposed land exchange alignment” on the Central Idaho*
13 *Sustainable Development Project map on file with the Com-*
14 *mittee on Resources of the House of Representatives.*

15 (b) *EXEMPTION FROM REVIEW, ETC.*—*Any convey-*
16 *ance of land under this chapter is not subject to review,*
17 *consultation, or approval under any other Federal law.*

18 (c) *TERMS AND CONDITIONS OF CONVEYANCE.*—

19 (1) *TRANSFER OF FEE TITLE IN FEDERAL*
20 *LANDS.*—*Notwithstanding any other provision of law,*
21 *full fee title in approximately 519.7 acres of Federal*
22 *lands described in subsection (a) shall be transferred*
23 *to Claimant as depicted as “proposed land exchange*
24 *alignment” on the Central Idaho Sustainable Devel-*
25 *opment Project map.*

1 (2) *VALID EXISTING RIGHTS.*—All lands con-
2 veyed pursuant to subsection (a) shall be subject to
3 valid existing rights existing as of the date of transfer
4 of title, and Claimant shall succeed to the rights and
5 obligations of the United States with respect to any
6 mining claim, mill site claim, lease, right-of-way,
7 permit, or other valid existing right to which the
8 property is subject.

9 (3) *ENVIRONMENTAL LIABILITY.*—Notwith-
10 standing any other Federal, State, or local law, the
11 United States shall not be responsible for—

12 (A) investigating or disclosing the condition
13 of any property to be conveyed under this chap-
14 ter; and

15 (B) environmental remediation, waste man-
16 agement, or environmental compliance activities
17 arising from its ownership, occupancy, or man-
18 agement of land and interests therein conveyed
19 under this chapter with respect to conditions ex-
20 isting at or on the land at the time of the con-
21 veyance.

22 **SEC. 6214. DISPOSITION OF PROCEEDS.**

23 Within one year of the completion of the conveyance
24 under this chapter, the gross proceeds of the conveyance
25 shall be used as follows:

1 (1) *Such sums as are necessary shall be used to*
 2 *cover 100 percent of the administrative costs, not to*
 3 *exceed \$15,000, incurred by the Idaho State Office*
 4 *and the Challis Field Office of the Bureau of Land*
 5 *Management in conducting conveyances under this*
 6 *chapter.*

7 (2) *\$200,000 shall be paid directly to the State*
 8 *of Idaho for use in the State Parks program.*

9 (3) *\$200,000 shall be paid directly to Custer*
 10 *County, Idaho.*

11 (4) *Proceeds remaining after the payments pur-*
 12 *suant to paragraphs (1) through (3) shall be deposited*
 13 *in the general fund of the Treasury.*

14 ***Subtitle C—Oil Shale***

15 **SEC. 6301. OIL SHALE AND TAR SANDS AMENDMENTS.**

16 (a) *COMMERCIAL LEASING OF OIL SHALE AND TAR*
 17 *SANDS.—Section 369(e) of the Energy Policy Act of 2005*
 18 *(Public Law 109–58) is amended to read as follows:*

19 “(e) *COMMENCEMENT OF COMMERCIAL LEASING OF*
 20 *OIL SHALE AND TAR SAND.—Not later than 365 days after*
 21 *publication of the final regulation required by subsection*
 22 *(d), the Secretary shall hold the first oil shale and tar sands*
 23 *lease sales under the regulation, offering for lease a min-*
 24 *imum of 35 percent of the Federal lands that are geologi-*
 25 *cally prospective for oil shale and tar sands within Colo-*

1 *rado, Utah, and Wyoming. The environmental impact*
 2 *statement developed in support of the commercial leasing*
 3 *program for oil shale and tar sands as required by sub-*
 4 *section (c) is deemed to provide adequate environmental*
 5 *analysis for all oil shale and tar sands lease sales conducted*
 6 *within the first 10 years after promulgation of the regula-*
 7 *tion, and such sales shall not be subject to further environ-*
 8 *mental analysis.”.*

9 **(b) REPEAL OF REQUIREMENT TO ESTABLISH PAY-**
 10 *MENTS.—Section 369(o) of the Energy Policy Act of 2005*
 11 *(Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927) is*
 12 *repealed.*

13 **(c) TREATMENT OF REVENUES.—Section 21 of the**
 14 *Mineral Leasing Act (30 U.S.C. 241) is amended by adding*
 15 *at the end the following:*

16 **“(e) REVENUES.—**

17 **“(1) IN GENERAL.—Notwithstanding the provi-**
 18 *sions of section 35, all revenues received from and*
 19 *under an oil shale or tar sands lease shall be disposed*
 20 *of as provided in this subsection.*

21 **“(2) ROYALTY RATES FOR COMMERCIAL**
 22 *LEASES.—*

23 **“(A) INITIAL PRODUCTION.—For the first**
 24 *10 years after initial production under each oil*
 25 *shale or tar sands lease issued under the com-*

1 *mercial leasing program established under sub-*
2 *section (d), the Secretary shall set the royalty*
3 *rate at not less than 1 percent nor more than 3*
4 *percent of the gross value of production. How-*
5 *ever, the initial production period royalty rate*
6 *set by the Secretary shall not apply to produc-*
7 *tion occurring more than 15 years after the date*
8 *of issuance of the lease.*

9 *“(B) SUBSEQUENT PERIODS.—After the pe-*
10 *riods of time specified in subparagraph (A), the*
11 *Secretary shall set the royalty rate on each oil*
12 *shale or tar sands lease issued under the com-*
13 *mercial leasing program established under sub-*
14 *section (d) at not less than 6 percent nor more*
15 *than 9 percent of the gross value of production.*

16 *“(C) REDUCTION.—The Secretary shall re-*
17 *duce any royalty otherwise required to be paid*
18 *under subparagraphs (A) and (B) under any oil*
19 *shale or tar sands lease on a sliding scale based*
20 *upon market price, with a 10 percent reduction*
21 *if the monthly average price of NYMEX West*
22 *Texas Intermediate crude oil at Cushing, Okla-*
23 *homa, (WTI) drops below \$50 (in 2005 dollars)*
24 *for the month in which the production is sold,*
25 *and an 80 percent reduction if the monthly aver-*

1 *age price of WTI drops below \$30 (in 2005 dol-*
2 *lars) for the month in which the production is*
3 *sold.*

4 “(3) *DISPOSITION OF REVENUES.*—

5 “(A) *DEPOSIT.*—*The Secretary shall deposit*
6 *into a separate account in the Treasury all reve-*
7 *nuces derived from any oil shale or tar sands*
8 *lease.*

9 “(B) *ALLOCATIONS TO STATES AND LOCAL*
10 *POLITICAL SUBDIVISIONS.*—*The Secretary shall*
11 *allocate 50 percent of the revenues deposited into*
12 *the account established under subparagraph (A)*
13 *to the State within the boundaries of which the*
14 *leased lands are located, with a portion of that*
15 *to be paid directly by the Secretary to the State’s*
16 *local political subdivisions as provided in this*
17 *paragraph.*

18 “(C) *TRANSMISSION OF ALLOCATIONS.*—

19 “(i) *IN GENERAL.*—*Not later than the*
20 *last business day of the month after the*
21 *month in which the revenues were received,*
22 *the Secretary shall transmit—*

23 “(I) *to each State two-thirds of*
24 *such State’s allocations under subpara-*
25 *graph (B), and in accordance with*

1 *clauses (ii) and (iii) to certain county-*
2 *equivalent and municipal political*
3 *subdivisions of such State a total of*
4 *one-third of such State's allocations*
5 *under subparagraph (B), together with*
6 *all accrued interest thereon; and*

7 *“(II) the remaining balance of*
8 *such revenues deposited into the ac-*
9 *count that are not allocated under sub-*
10 *paragraph (B), together with interest*
11 *thereon, shall be transmitted to the*
12 *miscellaneous receipts account of the*
13 *Treasury, except that until a lease has*
14 *been in production for 10 years 80 per-*
15 *cent of such remaining balance derived*
16 *from a lease shall be paid in accord-*
17 *ance with subclause (I).*

18 *“(ii) ALLOCATIONS TO CERTAIN COUN-*
19 *TY-EQUIVALENT POLITICAL SUBDIVISIONS.—*
20 *The Secretary shall under clause (i)(I)*
21 *make equitable allocations of the revenues to*
22 *county-equivalent political subdivisions that*
23 *the Secretary determines are closely associ-*
24 *ated with the leasing and production of oil*

1 *shale and tar sands, under a formula that*
2 *the Secretary shall determine by regulation.*

3 “(iii) *ALLOCATIONS TO MUNICIPAL PO-*
4 *LITICAL SUBDIVISIONS.—The initial alloca-*
5 *tion to each county-equivalent political sub-*
6 *division under clause (ii) shall be further*
7 *allocated to the county-equivalent political*
8 *subdivision and any municipal political*
9 *subdivisions located partially or wholly*
10 *within the boundaries of the county-equiva-*
11 *lent political subdivision on an equitable*
12 *basis under a formula that the Secretary*
13 *shall determine by regulation.*

14 “(D) *INVESTMENT OF DEPOSITS.—The de-*
15 *posits in the Treasury account established under*
16 *this section shall be invested by the Secretary of*
17 *the Treasury in securities backed by the full faith*
18 *and credit of the United States having matu-*
19 *rities suitable to the needs of the account and*
20 *yielding the highest reasonably available interest*
21 *rates as determined by the Secretary of the*
22 *Treasury.*

23 “(E) *USE OF FUNDS.—A recipient of funds*
24 *under this subsection may use the funds for any*
25 *lawful purpose as determined by State law.*

1 *Funds allocated under this subsection to States*
2 *and local political subdivisions may be used as*
3 *matching funds for other Federal programs with-*
4 *out limitation. Funds allocated to local political*
5 *subdivisions under this subsection may not be*
6 *used in calculation of payments to such local po-*
7 *litical subdivisions under programs for payments*
8 *in lieu of taxes or other similar programs.*

9 “(F) *NO ACCOUNTING REQUIRED.*—*No re-*
10 *recipient of funds under this subsection shall be re-*
11 *quired to account to the Federal Government for*
12 *the expenditure of such funds, except as otherwise*
13 *may be required by law.*

14 “(4) *DEFINITIONS.*—*In this subsection:*

15 “(A) *COUNTY-EQUIVALENT POLITICAL SUB-*
16 *DIVISION.*—*The term ‘county-equivalent political*
17 *subdivision’ means a political jurisdiction imme-*
18 *diately below the level of State government, in-*
19 *cluding a county, parish, borough in Alaska,*
20 *independent municipality not part of a county,*
21 *parish, or borough in Alaska, or other equivalent*
22 *subdivision of a State.*

23 “(B) *MUNICIPAL POLITICAL SUBDIVISION.*—
24 *The term ‘municipal political subdivision’ means*
25 *a municipality located within and part of a*

1 *county, parish, borough in Alaska, or other*
2 *equivalent subdivision of a State.”.*

3 ***Subtitle D—Sale and Conveyance of***
4 ***Federal Land***

5 ***SEC. 6401. COLLECTION OF RECEIPTS FROM THE SALE OF***
6 ***FEDERAL LANDS.***

7 *(a) IN GENERAL.—Notwithstanding any other law, the*
8 *Secretary shall make the lands described in subsection (b)*
9 *available for immediate sale through a competitive sale*
10 *process at fair market value. Requirements under the Na-*
11 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*
12 *et seq.) shall not apply to the sale of lands under this sec-*
13 *tion.*

14 *(b) LANDS DESCRIBED.—The lands referred to in sub-*
15 *section (a) are the following:*

16 *(1) Poplar Point (Transfer and Conveyance of*
17 *Properties in the District of Columbia, Map Number*
18 *869/80460, Dated July 2005, p. 28 of 28).*

19 *(2) U.S. Reservations 44, 45, 46, 47, 48 and 49*
20 *(Map Number 869/80460, Dated July 2005, p. 13 of*
21 *28).*

22 *(3) U.S. Reservation 251 (Map Number 869/*
23 *80460, Dated July 2005, p. 14 of 28).*

24 *(4) U.S. Reservation 8 (Map Number 869/80460,*
25 *Dated July 2005, p. 15 of 28).*

1 (5) *U.S. Reservation 17A (Map Number 869/*
2 *80460, Dated July 2005, p. 20 of 28).*

3 (6) *U.S. Reservation 484 (Map Number 869/*
4 *80460, Dated July 2005, p. 21 of 28).*

5 (7) *U.S. Reservation 721, 722 and 723 (Map*
6 *Number 869/80460, Dated July 2005, p. 25 of 28).*

7 (8) *Certain land adjacent to Robert F. Kennedy*
8 *Stadium Parking Lot (Transfer and Conveyance of*
9 *Properties in the District of Columbia, Map Number*
10 *869/80460, Dated July 2005, p. 26 of 28).*

11 (9) *United States Reservation 243, 244, 245, and*
12 *247 (Transfer and Conveyance of Properties in the*
13 *District of Columbia, Map Number 869/80460, Dated*
14 *July 2005, p. 22 of 28).*

15 *The Secretary may retain from sale proceeds and spend*
16 *without further appropriation up to \$1,000,000 each year*
17 *to implement land sales under this subsection, including*
18 *hiring contractors and appraisers*

19 (c) *POPLAR POINT.—*

20 (1) *RETENTION OF FUNDS.—The Secretary may*
21 *retain \$10,000,000 from funds received from the sale*
22 *of land under subsection (b)(1) and spend such funds*
23 *without further appropriations for the purposes of*
24 *complying with subparagraph (2).*

1 (2) *CONTINUITY OF OPERATION.*—*Before the sale*
2 *and development of land referred to in subparagraph*
3 *(b)(1), the Secretary shall ensure that the existing fa-*
4 *cilities and related properties (including necessary*
5 *easements and utilities related thereto) occupied or*
6 *otherwise used by the National Park Service are ei-*
7 *ther withheld from any sale and remain in operation*
8 *at its current location or will be relocated to suitable*
9 *replacement facilities along the Anacostia River in*
10 *the District of Columbia using funds made available*
11 *by subparagraph (c)(1).*

12 (3) *CONVEYANCE OF LANDS TO THE DISTRICT OF CO-*
13 *LUMBIA.*—

14 (1) *IN GENERAL.*—*Notwithstanding any other*
15 *law, the Secretary shall immediately convey all right,*
16 *title, and interest of the United States in the lands*
17 *described in this subsection to the District of Colum-*
18 *bia upon enactment of this section. Requirements*
19 *under the National Environmental Policy Act (42*
20 *U.S.C. 4321 et seq.) shall not apply to the conveyance*
21 *of lands under this subsection.*

22 (2) *LANDS DESCRIBED.*—*The lands referred to in*
23 *this subsection are as follows:*

24 (A) *United States Reservation 128, 129,*
25 *130, 298 and 299 (Transfer and Conveyance of*

1 *Properties in the District of Columbia, Map*
2 *Number 869/80460, Dated July 2005, p. 23 of*
3 *28).*

4 *(B) United States Reservation 174 (Map*
5 *Number 869/80460, Dated July 2005, p. 27 of*
6 *28).*

7 *(C) United States Reservation 277A and*
8 *277C (Map Number 869/80460, Dated July*
9 *2005, p. 16 of 28).*

10 *(D) United States Reservation 343D and*
11 *343E (Map Number 869/80460, Dated July*
12 *2005, p. 24 or 28).*

13 *(E) United States Reservation 404 (Map*
14 *Number 869/80460, Dated July 2005, p. 12 of*
15 *28).*

16 *(F) United States Reservation 451 (Map*
17 *Number 869/80460, Dated July 2005, p. 11 of*
18 *28).*

19 *(G) United States Reservation 470 (Trans-*
20 *fer and Conveyance of Properties in the District*
21 *of Columbia, Map Number 869/80460, Dated*
22 *July 2005, p. 17 of 28).*

23 *(e) TRANSFER OF ADMINISTRATIVE JURISDICTION*
24 *OVER CERTAIN PROPERTIES.—*

1 (1) *IN GENERAL.*—Upon the date of the enact-
2 ment of this subsection, administrative jurisdiction
3 over each of the following properties (owned by the
4 United States and as depicted on listed maps) is here-
5 by transferred from the District of Columbia to the
6 United States for administration by the Secretary of
7 the Interior through the Director of the National Park
8 Service:

9 (A) *An unimproved portion of Audubon*
10 *Terrace Northwest, located east of Linnean Ave-*
11 *nue Northwest, that is within U.S. Reservation*
12 *402 (Audubon Terrace, NW, Transfer and Con-*
13 *veyance of Properties in the District of Colum-*
14 *bia, Map Number 869/80460, Dated July 2005,*
15 *p. 2 of 28) .*

16 (B) *An unimproved portion of Barnaby*
17 *Street Northwest, north of Aberfoyle Place North-*
18 *west, that abuts U.S. Reservation 545 (Barnaby*
19 *Avenue, NW, Map Number 869/80460, Dated*
20 *July 2005, p. 3 of 28).*

21 (C) *A portion of Canal Street Southwest,*
22 *and a portion of V Street Southwest, each which*
23 *abuts U.S. Reservation (Canal and V Streets,*
24 *SW, Map Number 869/80460, Dated July 2005,*
25 *p. 3 of 28).*

1 (D) *Unimproved streets and alleys at Fort*
2 *Circle Park located within the boundaries of*
3 *U.S. Reservation 497 (Fort Circle Park, Map*
4 *Number 869/80460, Dated July 2005, p. 5 of*
5 *28)*”.

6 (E) *An unimproved portion of Western Ave-*
7 *nue Northwest, north of Oregon Avenue North-*
8 *west, that abuts U.S. Reservation 339 (Western*
9 *Avenue, NW, Map Number 869/80460, Dated*
10 *July 2005, p. 6 of 28).*

11 (F) *An unimproved portion of 17th Street*
12 *Northwest, south of Shepard Street Northwest,*
13 *that abuts U.S. Reservation 339 (17th Street,*
14 *NW, Map Number 869/80460, Dated July 2005,*
15 *p. 7 of 28).*

16 (G) *An unimproved portion of 30th Street*
17 *Northwest, north of Broad Branch Road, North-*
18 *west, that is within the boundaries of U.S. Res-*
19 *ervation 515 (30th Street, NW, Map Number*
20 *869/80460, Dated July 2005, p. 8 of 28).*

21 (H) *Land over I-395 at Washington Ave-*
22 *nue, Southwest (Lands over I-395 at Wash-*
23 *ington Avenue, SW, Map Number 869/80460,*
24 *Dated July 2005, p. 9 of 28).*

1 (I) *A portion of U.S. Reservation 357 at*
2 *Whitehaven Parkway Northwest, previously*
3 *transferred to the District of Columbia in con-*
4 *junction with the former proposal for a residence*
5 *for the Mayor of the District of Columbia (Por-*
6 *tion of U.S. Reservation 357, Transfer and Con-*
7 *veyance of Properties in the District of Colum-*
8 *bia, Map Number 869/80460, Dated July 2005,*
9 *p. 10 of 28).*

10 (2) *USE OF CERTAIN PROPERTY FOR MEMO-*
11 *RIAL.—In the case of the property for which adminis-*
12 *trative jurisdiction is transferred under paragraph*
13 *(1)(H), the property shall be used as the site for the*
14 *establishment of a memorial to honor disabled vet-*
15 *erans of the United States Armed Forces authorized*
16 *to be established by the Disabled Veterans' LIFE Me-*
17 *morial Foundation by Public Law 106–348 (114*
18 *Stat. 1358; 40 U.S.C. 8903 note), except that the Dis-*
19 *trict of Columbia shall retain administrative jurisdic-*
20 *tion over the subsurface area beneath the site for tun-*
21 *nels, walls, footings, and related facilities.*

1 **TITLE VII—COMMITTEE ON**
 2 **TRANSPORTATION AND IN-**
 3 **FRASTRUCTURE**

4 **SEC. 7001. EXTENSION OF VESSEL TONNAGE DUTIES.**

5 (a) *EXTENSION OF DUTIES.*—Section 36 of the Act en-
 6 titled “An Act to provide revenue, equalize duties and en-
 7 courage the industries of the United States, and for other
 8 purposes”, approved August 5, 1909 (36 Stat. 111; 46
 9 U.S.C. App. 121), is amended—

10 (1) by striking “9 cents per ton” and all that fol-
 11 lows through “2002,” the first place it appears and
 12 inserting “4.5 cents per ton, not to exceed in the ag-
 13 gregate 22.5 cents per ton in any one year, for fiscal
 14 years 2006 through 2010,”; and

15 (2) by striking “27 cents per ton” and all that
 16 follows through “2002,” and inserting “13.5 cents per
 17 ton, not to exceed 67.5 cents per ton per annum, for
 18 fiscal years 2006 through 2010,”.

19 (b) *CONFORMING AMENDMENT.*—The Act entitled “An
 20 Act concerning tonnage duties on vessels entering otherwise
 21 than by sea”, approved March 8, 1910 (36 Stat. 234; 46
 22 U.S.C. App. 132), is amended by striking “9 cents per ton”
 23 and all that follows through “and 2 cents” and inserting
 24 “4.5 cents per ton, not to exceed in the aggregate 22.5 cents

1 *per ton in any one year, for fiscal years 2006 through 2010,*
 2 *and 2 cents”.*

3 (c) *OFFSETTING RECEIPTS.—Increased tonnage*
 4 *charges collected as a result of the amendments made by*
 5 *subsection (a) shall be deposited in the general fund of the*
 6 *Treasury as offsetting receipts of the department in which*
 7 *the Coast Guard is operating and ascribed to Coast Guard*
 8 *activities related to marine safety, search and rescue, and*
 9 *aids to navigation.*

10 **TITLE VIII—COMMITTEE ON**
 11 **WAYS AND MEANS**

12 **SEC. 8001. SHORT TITLE.**

13 *This title may be cited as the “Work, Marriage, and*
 14 *Family Promotion Reconciliation Act of 2005”.*

15 **SEC. 8002. TABLE OF CONTENTS.**

16 *The table of contents of this title is as follows:*

- Sec. 8001. Short title.*
- Sec. 8002. Table of contents.*
- Sec. 8003. References.*
- Sec. 8004. Findings.*

Subtitle A—TANF

- Sec. 8101. Purposes.*
- Sec. 8102. Family assistance grants.*
- Sec. 8103. Promotion of family formation and healthy marriage.*
- Sec. 8104. Supplemental grant for population increases in certain States.*
- Sec. 8105. Elimination of high performance bonus.*
- Sec. 8106. Contingency fund.*
- Sec. 8107. Use of funds.*
- Sec. 8108. Repeal of Federal loan for State welfare programs.*
- Sec. 8109. Universal engagement and family self-sufficiency plan requirements.*
- Sec. 8110. Work participation requirements.*
- Sec. 8111. Maintenance of effort.*
- Sec. 8112. Performance improvement.*
- Sec. 8113. Data collection and reporting.*
- Sec. 8114. Direct funding and administration by Indian tribes.*

- Sec. 8115. Research, evaluations, and national studies.*
Sec. 8116. Study by the Census Bureau.
Sec. 8117. Definition of assistance.
Sec. 8118. Technical corrections.
Sec. 8119. Fatherhood program.
Sec. 8120. State option to make TANF programs mandatory partners with one-stop employment training centers.
Sec. 8121. Sense of the Congress.
Sec. 8122. Drug testing of applicants for and recipients of assistance.

Subtitle B—Child care

- Sec. 8201. Entitlement funding.*

Subtitle C—Child support

- Sec. 8301. Federal matching funds for limited pass through of child support payments to families receiving TANF.*
Sec. 8302. State option to pass through all child support payments to families that formerly received TANF.
Sec. 8303. Mandatory review and adjustment of child support orders for families receiving TANF.
Sec. 8304. Mandatory fee for successful child support collection for family that has never received TANF.
Sec. 8305. Report on undistributed child support payments.
Sec. 8306. Decrease in amount of child support arrearage triggering passport denial.
Sec. 8307. Use of tax refund intercept program to collect past-due child support on behalf of children who are not minors.
Sec. 8308. Garnishment of compensation paid to veterans for service-connected disabilities in order to enforce child support obligations.
Sec. 8309. Maintenance of technical assistance funding.
Sec. 8310. Maintenance of Federal Parent Locator Service funding.
Sec. 8311. Information comparisons with insurance data.
Sec. 8312. Tribal access to the Federal Parent Locator Service.
Sec. 8313. Reimbursement of Secretary's costs of information comparisons and disclosure for enforcement of obligations on Higher Education Act loans and grants.
Sec. 8314. Technical amendment relating to cooperative agreements between States and Indian tribes.
Sec. 8315. State option to use statewide automated data processing and information retrieval system for interstate cases.
Sec. 8316. Modification of rule requiring assignment of support rights as a condition of receiving TANF.
Sec. 8317. State option to discontinue certain support assignments.
Sec. 8318. Technical correction.
Sec. 8319. Reduction in rate of reimbursement of child support administrative expenses.
Sec. 8320. Incentive payments.

Subtitle D—Child welfare

- Sec. 8401. Extension of authority to approve demonstration projects.*
Sec. 8402. Elimination of limitation on number of waivers.
Sec. 8403. Elimination of limitation on number of States that may be granted waivers to conduct demonstration projects on same topic.

Sec. 8404. *Elimination of limitation on number of waivers that may be granted to a single State for demonstration projects.*

Sec. 8405. *Streamlined process for consideration of amendments to and extensions of demonstration projects requiring waivers.*

Sec. 8406. *Availability of reports.*

Sec. 8407. *Clarification of eligibility for foster care maintenance payments and adoption assistance.*

Sec. 8408. *Clarification regarding Federal matching of certain administrative costs under the foster care maintenance payments program.*

Sec. 8409. *Technical correction.*

Sec. 8410. *Technical correction.*

Subtitle E—Supplemental security income

Sec. 8501. *Review of State agency blindness and disability determinations.*

Sec. 8502. *Payment of certain lump sum benefits in installments under the Supplemental Security Income program.*

Subtitle F—State and local flexibility

Sec. 8601. *Program coordination demonstration projects.*

Subtitle G—Repeal of continued dumping and subsidy offset

Sec. 8701. *Repeal of continued dumping and subsidy offset.*

Subtitle H—Effective date

Sec. 8801. *Effective date.*

1 SEC. 8003. REFERENCES.

2 *Except as otherwise expressly provided, wherever in*
 3 *this title an amendment or repeal is expressed in terms of*
 4 *an amendment to, or repeal of, a section or other provision,*
 5 *the amendment or repeal shall be considered to be made*
 6 *to a section or other provision of the Social Security Act.*

7 SEC. 8004. FINDINGS.

8 *The Congress makes the following findings:*

9 (1) *The Temporary Assistance for Needy Families*
 10 *(TANF) Program established by the Personal Re-*
 11 *sponsibility and Work Opportunity Reconciliation*
 12 *Act of 1996 (Public Law 104–193) has succeeded in*

1 *moving families from welfare to work and reducing*
2 *child poverty.*

3 (A) *There has been a dramatic increase in*
4 *the employment of current and former welfare*
5 *recipients. The percentage of working recipients*
6 *reached an all-time high in fiscal year 1999 and*
7 *continued steady in fiscal years 2000 and 2001.*
8 *In fiscal year 2003, 31.3 percent of adult recipi-*
9 *ents were counted as meeting the work participa-*
10 *tion requirements. All States but one met the*
11 *overall participation rate standard in fiscal year*
12 *2003, as did the District of Columbia and Puerto*
13 *Rico.*

14 (B) *Earnings for welfare recipients remain-*
15 *ing on the rolls have also increased significantly,*
16 *as have earnings for female-headed households.*
17 *The increases have been particularly large for the*
18 *bottom 2 income quintiles, that is, those women*
19 *who are most likely to be former or present wel-*
20 *fare recipients.*

21 (C) *Welfare dependency has plummeted. As*
22 *of June 2004, 1,969,909 families and 4,727,291*
23 *individuals were receiving assistance. Accord-*
24 *ingly, the number of families in the welfare case-*
25 *load and the number of individuals receiving*

1 *cash assistance declined 55 percent and 61 per-*
2 *cent, respectively, since the enactment of TANF.*

3 *(D) The child poverty rate continued to de-*
4 *cline between 1996 and 2003, falling 14 percent*
5 *from 20.5 to 17.6 percent. Child poverty rates for*
6 *African-American and Hispanic children have*
7 *also fallen dramatically during the past 7 years.*

8 *(2) As a Nation, we have made substantial*
9 *progress in reducing teen pregnancies and births,*
10 *slowing increases in nonmarital childbearing, and*
11 *improving child support collections and paternity es-*
12 *tablishment.*

13 *(A) The birth rate to teenagers declined 30*
14 *percent from its high in 1991 to 2002. The 2002*
15 *teenage birth rate of 43.0 per 1,000 women aged*
16 *15–19 is the lowest recorded birth rate for teen-*
17 *agers.*

18 *(B) During the period from 1991 through*
19 *2001, teenage birth rates fell in all States and*
20 *the District of Columbia, Puerto Rico, Guam,*
21 *and the Virgin Islands. Declines also have*
22 *spanned age, racial, and ethnic groups. There*
23 *has been success in lowering the birth rate for*
24 *both younger and older teens. The birth rate for*
25 *those 15–17 years of age has declined 40 percent*

1 *since 1991, and the rate for those 18 and 19 has*
2 *declined 23 percent. The rate for African Amer-*
3 *ican teens—until recently the highest—has de-*
4 *clined the most—42 percent from 1991 through*
5 *2002.*

6 *(C) Since the enactment of the Personal Re-*
7 *sponsibility and Work Opportunity Reconcili-*
8 *ation Act of 1996, child support collections with-*
9 *in the child support enforcement system have*
10 *grown every year, increasing from*
11 *\$12,000,000,000 in fiscal year 1996 to over*
12 *\$21,000,000,000 in fiscal year 2003. The number*
13 *of paternities established or acknowledged in fis-*
14 *cal year 2003 (over 1,500,000) includes a more*
15 *than 100 percent increase through in-hospital ac-*
16 *knowledgement programs—862,043 in 2003 com-*
17 *pared to 324,652 in 1996. Child support collec-*
18 *tions were made in nearly 8,000,000 cases in fis-*
19 *cal year 2003, significantly more than the al-*
20 *most 4,000,000 cases having a collection in 1996.*

21 *(3) The Personal Responsibility and Work Op-*
22 *portunity Reconciliation Act of 1996 gave States*
23 *great flexibility in the use of Federal funds to develop*
24 *innovative programs to help families leave welfare*

1 *and begin employment and to encourage the forma-*
2 *tion of 2-parent families.*

3 *(A) Total Federal and State TANF expendi-*
4 *tures in fiscal year 2003 were \$26,300,000,000,*
5 *up from \$25,400,000,000 in fiscal year 2002 and*
6 *\$22,600,000,000 in fiscal year 1999. This in-*
7 *creased spending is attributable to significant*
8 *new investments in supportive services in the*
9 *TANF program, such as child care and activities*
10 *to support work.*

11 *(B) Since the welfare reform effort began*
12 *there has been a dramatic increase in work par-*
13 *ticipation (including employment, community*
14 *service, and work experience) among welfare re-*
15 *cipients, as well as an unprecedented reduction*
16 *in the caseload because recipients have left wel-*
17 *fare for work.*

18 *(C) States are making policy choices and*
19 *investment decisions best suited to the needs of*
20 *their citizens.*

21 *(i) To expand aid to working families,*
22 *almost all States disregard a portion of a*
23 *family's earned income when determining*
24 *benefit levels.*

1 (ii) Most States increased the limits on
2 countable assets above the former Aid to
3 Families with Dependent Children (AFDC)
4 program. Every State has increased the ve-
5 hicle asset level above the prior AFDC limit
6 for a family's primary automobile.

7 (iii) States are experimenting with
8 programs to promote marriage and pater-
9 nal involvement. Over half of the States
10 have eliminated restrictions on 2-parent
11 families. Many States use TANF, child sup-
12 port, or State funds to support community-
13 based activities to help fathers become more
14 involved in their children's lives or strength-
15 en relationships between mothers and fa-
16 thers.

17 (4) However, despite this success, there is still
18 progress to be made. Policies that support and pro-
19 mote more work, strengthen families, and enhance
20 State flexibility are necessary to continue to build on
21 the success of welfare reform.

22 (A) Significant numbers of welfare recipi-
23 ents still are not engaged in employment-related
24 activities. While all States have met the overall
25 work participation rates required by law, in an

1 *average month, only 41 percent of all families*
2 *with an adult participated in work activities*
3 *that were countable toward the State's participa-*
4 *tion rate. In fiscal year 2003, four jurisdictions*
5 *failed to meet the more rigorous 2-parent work*
6 *requirements, and 25 jurisdictions (States and*
7 *territories) are not subject to the 2-parent re-*
8 *quirements, most because they moved their 2-par-*
9 *ent cases to separate State programs where they*
10 *are not subject to a penalty for failing the 2-par-*
11 *ent rates.*

12 *(B) In 2002, 34 percent of all births in the*
13 *U.S. were to unmarried women. And, with fewer*
14 *teens entering marriage, the proportion of births*
15 *to unmarried teens has increased dramatically*
16 *(80 percent in 2002 versus 30 percent in 1970).*
17 *The negative consequences of out-of-wedlock birth*
18 *on the mother, the child, the family, and society*
19 *are well documented. These include increased*
20 *likelihood of welfare dependency, increased risks*
21 *of low birth weight, poor cognitive development,*
22 *child abuse and neglect, and teen parenthood,*
23 *and decreased likelihood of having an intact*
24 *marriage during adulthood.*

1 (C) *There has been a dramatic rise in co-*
2 *habitation as marriages have declined. It is esti-*
3 *mated that 40 percent of children are expected to*
4 *live in a cohabiting-parent family at some point*
5 *during their childhood. Children in single-parent*
6 *households and cohabiting-parent households are*
7 *at much higher risk of child abuse than children*
8 *in intact married families.*

9 (D) *Children who live apart from their bio-*
10 *logical fathers, on average, are more likely to be*
11 *poor, experience educational, health, emotional,*
12 *and psychological problems, be victims of child*
13 *abuse, engage in criminal behavior, and become*
14 *involved with the juvenile justice system than*
15 *their peers who live with their married, biologi-*
16 *cal mother and father. A child living with a sin-*
17 *gle mother is nearly 5 times as likely to be poor*
18 *as a child living in a married-couple family. In*
19 *2003, in married-couple families, the child pov-*
20 *erty rate was 8.6 percent, and in households*
21 *headed by a single mother the poverty rate was*
22 *41.7 percent.*

23 (5) *Therefore, it is the sense of the Congress that*
24 *increasing success in moving families from welfare to*
25 *work, as well as in promoting healthy marriage and*

1 *other means of improving child well-being, are very*
 2 *important Government interests and the policy con-*
 3 *tained in part A of title IV of the Social Security Act*
 4 *(as amended by this title) is intended to serve those*
 5 *ends.*

6 ***Subtitle A—TANF***

7 ***SEC. 8101. PURPOSES.***

8 *Section 401(a) (42 U.S.C. 601(a)) is amended—*

9 *(1) in the matter preceding paragraph (1), by*
 10 *striking “increase” and inserting “improve child well-*
 11 *being by increasing”;*

12 *(2) in paragraph (1), by inserting “and serv-*
 13 *ices” after “assistance”;*

14 *(3) in paragraph (2), by striking “parents on*
 15 *government benefits” and inserting “families on gov-*
 16 *ernment benefits and reduce poverty”; and*

17 *(4) in paragraph (4), by striking “two-parent*
 18 *families” and inserting “healthy, 2-parent married*
 19 *families, and encourage responsible fatherhood”.*

20 ***SEC. 8102. FAMILY ASSISTANCE GRANTS.***

21 *(a) EXTENSION OF AUTHORITY.—Section 403(a)(1)(A)*
 22 *(42 U.S.C. 603(a)(1)(A)) is amended—*

23 *(1) by striking “1996, 1997, 1998, 1999, 2000,*
 24 *2001, 2002, and 2003” and inserting “2006 through*
 25 *2010”; and*

1 (2) by inserting “payable to the State for the fis-
2 cal year” before the period.

3 (b) *STATE FAMILY ASSISTANCE GRANT*.—Section
4 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by strik-
5 ing “fiscal year 2003” and inserting “each of fiscal years
6 2006 through 2010”.

7 (c) *MATCHING GRANTS FOR THE TERRITORIES*.—Sec-
8 tion 1108(b)(2) (42 U.S.C. 1308(b)(2)) is amended by strik-
9 ing “1997 through 2003” and inserting “2006 through
10 2010”.

11 **SEC. 8103. PROMOTION OF FAMILY FORMATION AND**
12 **HEALTHY MARRIAGE.**

13 (a) *STATE PLANS*.—Section 402(a)(1)(A) (42 U.S.C.
14 602(a)(1)(A)) is amended by adding at the end the fol-
15 lowing:

16 “(vii) Encourage equitable treatment of
17 married, 2-parent families under the pro-
18 gram referred to in clause (i).”.

19 (b) *HEALTHY MARRIAGE PROMOTION GRANTS; RE-*
20 *PEAL OF BONUS FOR REDUCTION OF ILLEGITIMACY*
21 *RATIO*.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amend-
22 ed to read as follows:

23 “(2) *HEALTHY MARRIAGE PROMOTION*
24 *GRANTS*.—

1 “(A) *AUTHORITY.*—*The Secretary shall*
2 *award competitive grants to States, territories,*
3 *and tribal organizations for not more than 50*
4 *percent of the cost of developing and imple-*
5 *menting innovative programs to promote and*
6 *support healthy, married, 2-parent families.*

7 “(B) *HEALTHY MARRIAGE PROMOTION AC-*
8 *TIVITIES.*—*Funds provided under subparagraph*
9 *(A) shall be used to support any of the following*
10 *programs or activities:*

11 “(i) *Public advertising campaigns on*
12 *the value of marriage and the skills needed*
13 *to increase marital stability and health.*

14 “(ii) *Education in high schools on the*
15 *value of marriage, relationship skills, and*
16 *budgeting.*

17 “(iii) *Marriage education, marriage*
18 *skills, and relationship skills programs, that*
19 *may include parenting skills, financial*
20 *management, conflict resolution, and job*
21 *and career advancement, for non-married*
22 *pregnant women and non-married expect-*
23 *ant fathers.*

24 “(iv) *Pre-marital education and mar-*
25 *riage skills training for engaged couples and*

1 *for couples or individuals interested in*
2 *marriage.*

3 “(v) *Marriage enhancement and mar-*
4 *riage skills training programs for married*
5 *couples.*

6 “(vi) *Divorce reduction programs that*
7 *teach relationship skills.*

8 “(vii) *Marriage mentoring programs*
9 *which use married couples as role models*
10 *and mentors in at-risk communities.*

11 “(viii) *Programs to reduce the dis-*
12 *incentives to marriage in means-tested aid*
13 *programs, if offered in conjunction with*
14 *any activity described in this subpara-*
15 *graph.*

16 “(C) *VOLUNTARY PARTICIPATION.—*

17 “(i) *IN GENERAL.—Participation in a*
18 *program or activity described in any of*
19 *clauses (iii) through (viii) of subparagraph*
20 *(B) shall be voluntary.*

21 “(ii) *REQUIREMENTS FOR RECEIPT OF*
22 *FUNDS.—The Secretary may not award a*
23 *grant under this paragraph to an applicant*
24 *for the grant, unless—*

1 “(I) the application for the grant
2 describes—

3 “(aa) how the programs or
4 activities proposed in the applica-
5 tion will address, as appropriate,
6 issues of domestic violence; and

7 “(bb) what the applicant will
8 do, to the extent relevant, to en-
9 sure that participation in the pro-
10 grams or activities is voluntary,
11 and to inform potential partici-
12 pants that their participation is
13 voluntary; and

14 “(II) the applicant agrees that, as
15 a condition of receipt of the grant, the
16 applicant will consult with experts in
17 domestic violence or relevant commu-
18 nity domestic violence coalitions in de-
19 veloping the programs and activities
20 funded with the grant.

21 “(D) APPROPRIATION.—Out of any money
22 in the Treasury of the United States not other-
23 wise appropriated, there are appropriated for
24 each of fiscal years 2006 through 2010
25 \$100,000,000 for grants under this paragraph.”.

1 (c) *COUNTING OF SPENDING ON NON-ELIGIBLE FAMI-*
 2 *LIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-*
 3 *WEDLOCK BIRTHS, ENCOURAGE FORMATION AND MAINTE-*
 4 *NANCE OF HEALTHY, 2-PARENT MARRIED FAMILIES, OR*
 5 *ENCOURAGE RESPONSIBLE FATHERHOOD.*—*Section*
 6 *409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by*
 7 *adding at the end the following:*

8 “(V) *COUNTING OF SPENDING ON*
 9 *NON-ELIGIBLE FAMILIES TO PREVENT*
 10 *AND REDUCE INCIDENCE OF OUT-OF-*
 11 *WEDLOCK BIRTHS, ENCOURAGE FORMA-*
 12 *TION AND MAINTENANCE OF HEALTHY,*
 13 *2-PARENT MARRIED FAMILIES, OR EN-*
 14 *COURAGE RESPONSIBLE FATHER-*
 15 *HOOD.*—*The term ‘qualified State ex-*
 16 *penditures’ includes the total expendi-*
 17 *tures by the State during the fiscal*
 18 *year under all State programs for a*
 19 *purpose described in paragraph (3) or*
 20 *(4) of section 401(a).’.*”

21 **SEC. 8104. SUPPLEMENTAL GRANT FOR POPULATION IN-**
 22 **CREASES IN CERTAIN STATES.**

23 Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended—
 24 (1) in subparagraph (E)—

1 (A) by striking “1998, 1999, 2000, and
2 2001” and inserting “2006 through 2009”; and

3 (B) by striking “, in a total amount not to
4 exceed \$800,000,000”;

5 (2) in subparagraph (G), by striking “2001”
6 and inserting “2009”; and

7 (3) by striking subparagraph (H) and inserting
8 the following:

9 “(H) *FURTHER PRESERVATION OF GRANT*
10 *AMOUNTS.—A State that was a qualifying State*
11 *under this paragraph for fiscal year 2004 or any*
12 *prior fiscal year shall be entitled to receive from*
13 *the Secretary for each of fiscal years 2006*
14 *through 2009 a grant in an amount equal to the*
15 *amount required to be paid to the State under*
16 *this paragraph for the most recent fiscal year for*
17 *which the State was a qualifying State.”.*

18 **SEC. 8105. ELIMINATION OF HIGH PERFORMANCE BONUS.**

19 Section 403(a) (42 U.S.C. 603(a)) is amended by strik-
20 ing paragraph (4).

21 **SEC. 8106. CONTINGENCY FUND.**

22 (a) *DEPOSITS INTO FUND.—Section 403(b)(2) (42*
23 *U.S.C. 603(b)(2)) is amended—*

1 (1) *by striking “1997, 1998, 1999, 2000, 2001,*
 2 *2002, and 2003” and inserting “2006 through 2010”;*
 3 *and*

4 (2) *by striking all that follows “\$2,000,000,000”*
 5 *and inserting a period.*

6 (b) *GRANTS.—Section 403(b)(3)(C)(ii) (42 U.S.C.*
 7 *603(b)(3)(C)(ii)) is amended by striking “fiscal years 1997*
 8 *through 2006” and inserting “fiscal years 2006 through*
 9 *2010”.*

10 (c) *DEFINITION OF NEEDY STATE.—Clauses (i) and*
 11 *(ii) of section 403(b)(5)(B) (42 U.S.C. 603(b)(5)(B)) are*
 12 *amended by inserting after “1996” the following: “and the*
 13 *Food Stamp Act of 1977 as in effect during the cor-*
 14 *responding 3-month period in the fiscal year preceding such*
 15 *most recently concluded 3-month period”.*

16 (d) *ANNUAL RECONCILIATION: FEDERAL MATCHING*
 17 *OF STATE EXPENDITURES ABOVE “MAINTENANCE OF EF-*
 18 *FORT” LEVEL.—Section 403(b)(6) (42 U.S.C. 603(b)(6)) is*
 19 *amended—*

20 (1) *in subparagraph (A)(ii)—*

21 (A) *by adding “and” at the end of subclause*
 22 (I);

23 (B) *by striking “; and” at the end of sub-*
 24 *clause (II) and inserting a period; and*

25 (C) *by striking subclause (III);*

1 (2) in subparagraph (B)(i)(II), by striking all
2 that follows “section 409(a)(7)(B)(iii)” and inserting
3 a period;

4 (3) by amending subparagraph (B)(ii)(I) to read
5 as follows:

6 “(I) the qualified State expendi-
7 tures (as defined in section
8 409(a)(7)(B)(i)) for the fiscal year;
9 plus”; and

10 (4) by striking subparagraph (C).

11 (e) *CONSIDERATION OF CERTAIN CHILD CARE EX-*
12 *PENDITURES IN DETERMINING STATE COMPLIANCE WITH*
13 *CONTINGENCY FUND MAINTENANCE OF EFFORT REQUIRE-*
14 *MENT.*—Section 409(a)(10) (42 U.S.C. 609(a)(10)) is
15 *amended*—

16 (1) by striking “(other than the expenditures de-
17 scribed in subclause (I)(bb) of that paragraph)) under
18 the State program funded under this part” and in-
19 serting a close parenthesis; and

20 (2) by striking “excluding any amount expended
21 by the State for child care under subsection (g) or (i)
22 of section 402 (as in effect during fiscal year 1994)
23 for fiscal year 1994,”.

24 (f) *EFFECTIVE DATE.*—The amendments made by sub-
25 *sections (c), (d), and (e) shall take effect on October 1, 2007.*

1 **SEC. 8107. USE OF FUNDS.**

2 (a) *GENERAL RULES.*—Section 404(a)(2) (42 U.S.C.
3 604(a)(2)) is amended by striking “in any manner that”
4 and inserting “for any purposes or activities for which”.

5 (b) *TREATMENT OF INTERSTATE IMMIGRANTS.*—

6 (1) *STATE PLAN PROVISION.*—Section
7 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended by
8 striking clause (i) and redesignating clauses (ii)
9 through (iv) as clauses (i) through (iii), respectively.

10 (2) *USE OF FUNDS.*—Section 404 (42 U.S.C.
11 604) is amended by striking subsection (c).

12 (c) *INCREASE IN AMOUNT TRANSFERABLE TO CHILD*
13 *CARE.*—Section 404(d)(1) (42 U.S.C. 604(d)(1)) is amend-
14 ed by striking “30” and inserting “50”.

15 (d) *INCREASE IN AMOUNT TRANSFERABLE TO TITLE*
16 *XX PROGRAMS.*—Section 404(d)(2)(B) (42 U.S.C.
17 604(d)(2)(B)) is amended to read as follows:

18 “(B) *APPLICABLE PERCENT.*—For purposes
19 of subparagraph (A), the applicable percent is 10
20 percent for fiscal year 2006 and each succeeding
21 fiscal year.”.

22 (e) *CLARIFICATION OF AUTHORITY OF STATES TO USE*
23 *TANF FUNDS CARRIED OVER FROM PRIOR YEARS TO PRO-*
24 *VIDE TANF BENEFITS AND SERVICES.*—Section 404(e) (42
25 U.S.C. 604(e)) is amended to read as follows:

1 “(e) *AUTHORITY TO CARRYOVER OR RESERVE CER-*
 2 *TAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FU-*
 3 *TURE CONTINGENCIES.*—

4 “(1) *CARRYOVER.*—*A State or tribe may use a*
 5 *grant made to the State or tribe under this part for*
 6 *any fiscal year to provide, without fiscal year limita-*
 7 *tion, any benefit or service that may be provided*
 8 *under the State or tribal program funded under this*
 9 *part.*

10 “(2) *CONTINGENCY RESERVE.*—*A State or tribe*
 11 *may designate any portion of a grant made to the*
 12 *State or tribe under this part as a contingency re-*
 13 *serve for future needs, and may use any amount so*
 14 *designated to provide, without fiscal year limitation,*
 15 *any benefit or service that may be provided under the*
 16 *State or tribal program funded under this part. If a*
 17 *State or tribe so designates a portion of such a grant,*
 18 *the State shall, on an annual basis, include in its re-*
 19 *port under section 411(a) the amount so designated.”.*

20 **SEC. 8108. REPEAL OF FEDERAL LOAN FOR STATE WELFARE**
 21 **PROGRAMS.**

22 “(a) *REPEAL.*—*Effective as of October 1, 2006, section*
 23 *406 (42 U.S.C. 606) is repealed.*

24 “(b) *CONFORMING AMENDMENTS.*—

1 (1) *Section 409(a) (42 U.S.C. 609(a)) is amend-*
 2 *ed by striking paragraph (6).*

3 (2) *Section 412 (42 U.S.C. 612) is amended by*
 4 *striking subsection (f) and redesignating subsections*
 5 *(g) through (i) as subsections (f) through (h), respec-*
 6 *tively.*

7 (3) *Section 1108(a)(2) (42 U.S.C. 1308(a)(2)) is*
 8 *amended by striking “406.”.*

9 **SEC. 8109. UNIVERSAL ENGAGEMENT AND FAMILY SELF-**
 10 **SUFFICIENCY PLAN REQUIREMENTS.**

11 (a) *MODIFICATION OF STATE PLAN REQUIREMENTS.—*
 12 *Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A)) is amended*
 13 *by striking clauses (ii) and (iii) and inserting the following:*

14 “(ii) *Require a parent or caretaker re-*
 15 *ceiving assistance under the program to en-*
 16 *gage in work or alternative self-sufficiency*
 17 *activities (as defined by the State), con-*
 18 *sistent with section 407(e)(2).*

19 “(iii) *Require families receiving assist-*
 20 *ance under the program to engage in activi-*
 21 *ties in accordance with family self-suffi-*
 22 *ciency plans developed pursuant to section*
 23 *408(b).”.*

24 (b) *ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY*
 25 *PLANS.—*

1 (1) *IN GENERAL.*—Section 408(b) (42 U.S.C.
2 608(b)) is amended to read as follows:

3 “(b) *FAMILY SELF-SUFFICIENCY PLANS.*—

4 “(1) *IN GENERAL.*—A State to which a grant is
5 made under section 403 shall—

6 “(A) assess, in the manner deemed appro-
7 priate by the State, the skills, prior work experi-
8 ence, and employability of each work-eligible in-
9 dividual (as defined in section 407(b)(2)(C)) re-
10 ceiving assistance under the State program fund-
11 ed under this part;

12 “(B) establish for each family that includes
13 such an individual, in consultation as the State
14 deems appropriate with the individual, a self-
15 sufficiency plan that specifies appropriate activi-
16 ties described in the State plan submitted pursu-
17 ant to section 402, including direct work activi-
18 ties as appropriate designed to assist the family
19 in achieving their maximum degree of self-suffi-
20 ciency, and that provides for the ongoing partici-
21 pation of the individual in the activities;

22 “(C) require, at a minimum, each such in-
23 dividual to participate in activities in accord-
24 ance with the self-sufficiency plan;

1 “(D) monitor the participation of each such
2 individual in the activities specified in the self-
3 sufficiency plan, and regularly review the
4 progress of the family toward self-sufficiency;

5 “(E) upon such a review, revise the self-suf-
6 ficiency plan and activities as the State deems
7 appropriate.

8 “(2) *TIMING.*—The State shall comply with
9 paragraph (1) with respect to a family—

10 “(A) in the case of a family that, as of Oc-
11 tober 1, 2005, is not receiving assistance from
12 the State program funded under this part, not
13 later than 60 days after the family first receives
14 assistance on the basis of the most recent appli-
15 cation for the assistance; or

16 “(B) in the case of a family that, as of such
17 date, is receiving the assistance, not later than
18 12 months after the date of enactment of this
19 subsection.

20 “(3) *STATE DISCRETION.*—A State shall have
21 sole discretion, consistent with section 407, to define
22 and design activities for families for purposes of this
23 subsection, to develop methods for monitoring and re-
24 viewing progress pursuant to this subsection, and to
25 make modifications to the plan as the State deems

1 *appropriate to assist the individual in increasing*
 2 *their degree of self-sufficiency.*

3 “(4) *RULE OF INTERPRETATION.*—*Nothing in*
 4 *this part shall preclude a State from—*

5 “(A) *requiring participation in work and*
 6 *any other activities the State deems appropriate*
 7 *for helping families achieve self-sufficiency and*
 8 *improving child well-being; or*

9 “(B) *using job search or other appropriate*
 10 *job readiness or work activities to assess the em-*
 11 *ployability of individuals and to determine ap-*
 12 *propriate future engagement activities.”.*

13 (2) *PENALTY FOR FAILURE TO ESTABLISH FAM-*
 14 *ILY SELF-SUFFICIENCY PLAN.*—*Section 409(a)(3) (42*
 15 *U.S.C. 609(a)(3)) is amended—*

16 (A) *in the paragraph heading, by inserting*
 17 “*OR ESTABLISH FAMILY SELF-SUFFICIENCY*
 18 *PLAN” after “RATES”; and*

19 (B) *in subparagraph (A), by inserting “or*
 20 *408(b)” after “407(a)”.*

21 **SEC. 8110. WORK PARTICIPATION REQUIREMENTS.**

22 (a) *IN GENERAL.*—*Section 407 (42 U.S.C. 607) is*
 23 *amended by striking all that precedes subsection (b)(3) and*
 24 *inserting the following:*

1 **“SEC. 407. WORK PARTICIPATION REQUIREMENTS.**

2 “(a) *PARTICIPATION RATE REQUIREMENTS.*—A State
3 to which a grant is made under section 403 for a fiscal
4 year shall achieve a minimum participation rate equal to
5 not less than—

6 “(1) 50 percent for fiscal year 2006;

7 “(2) 55 percent for fiscal year 2007;

8 “(3) 60 percent for fiscal year 2008;

9 “(4) 65 percent for fiscal year 2009; and

10 “(5) 70 percent for fiscal year 2010 and each
11 succeeding fiscal year.

12 “(b) *CALCULATION OF PARTICIPATION RATES.*—

13 “(1) *AVERAGE MONTHLY RATE.*—For purposes of
14 subsection (a), the participation rate of a State for a
15 fiscal year is the average of the participation rates of
16 the State for each month in the fiscal year.

17 “(2) *MONTHLY PARTICIPATION RATES; INCORPO-*
18 *RATION OF 40-HOUR WORK WEEK STANDARD.*—

19 “(A) *IN GENERAL.*—For purposes of para-
20 graph (1), the participation rate of a State for
21 a month is—

22 “(i) the total number of countable
23 hours (as defined in subsection (c)) with re-
24 spect to the counted families for the State
25 for the month; divided by

1 “(i) 160 multiplied by the number of
2 counted families for the State for the month.

3 “(B) COUNTED FAMILIES DEFINED.—

4 “(i) IN GENERAL.—In subparagraph
5 (A), the term ‘counted family’ means, with
6 respect to a State and a month, a family
7 that includes a work-eligible individual and
8 that receives assistance in the month under
9 the State program funded under this part,
10 subject to clause (ii).

11 “(ii) STATE OPTION TO EXCLUDE CER-
12 TAIN FAMILIES.—At the option of a State,
13 the term ‘counted family’ shall not in-
14 clude—

15 “(I) a family in the first month
16 for which the family receives assistance
17 from a State program funded under
18 this part on the basis of the most re-
19 cent application for such assistance;

20 “(II) on a case-by-case basis, a
21 family in which the youngest child has
22 not attained 12 months of age; or

23 “(III) a family that is subject to
24 a sanction under this part or part D,
25 but that has not been subject to such a

1 *sanction for more than 3 months*
2 *(whether or not consecutive) in the pre-*
3 *ceding 12-month period.*

4 “(iii) *STATE OPTION TO INCLUDE INDI-*
5 *VIDUALS RECEIVING ASSISTANCE UNDER A*
6 *TRIBAL FAMILY ASSISTANCE PLAN OR TRIB-*
7 *AL WORK PROGRAM.—At the option of a*
8 *State, the term ‘counted family’ may in-*
9 *clude families in the State that are receiv-*
10 *ing assistance under a tribal family assist-*
11 *ance plan approved under section 412 or*
12 *under a tribal work program to which*
13 *funds are provided under this part.*

14 “(C) *WORK-ELIGIBLE INDIVIDUAL DE-*
15 *FINED.—In this section, the term ‘work-eligible*
16 *individual’ means an individual—*

17 “(i) *who is married or a single head of*
18 *household; and*

19 “(ii) *whose needs are (or, but for sanc-*
20 *tions under this part or part D, would be)*
21 *included in determining the amount of cash*
22 *assistance to be provided to the family*
23 *under the State program funded under this*
24 *part.”.*

1 (b) *RECALIBRATION OF CASELOAD REDUCTION CRED-*
 2 *IT.*—

3 (1) *IN GENERAL.*—Section 407(b)(3)(A)(ii) (42
 4 U.S.C. 607(b)(3)(A)(ii)) is amended to read as fol-
 5 lows:

6 “(ii) the average monthly number of
 7 families that received assistance under the
 8 State program funded under this part dur-
 9 ing the base year.”.

10 (2) *CONFORMING AMENDMENT.*—Section
 11 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by
 12 striking “and eligibility criteria” and all that follows
 13 through the close parenthesis and inserting “and the
 14 eligibility criteria in effect during the then applicable
 15 base year”.

16 (3) *BASE YEAR DEFINED.*—Section 407(b)(3) (42
 17 U.S.C. 607(b)(3)) is amended by adding at the end
 18 the following:

19 “(C) *BASE YEAR DEFINED.*—In this para-
 20 graph, the term ‘base year’ means, with respect
 21 to a fiscal year—

22 “(i) if the fiscal year is fiscal year
 23 2006, fiscal year 1996;

24 “(ii) if the fiscal year is fiscal year
 25 2007, fiscal year 1998;

1 “(iii) if the fiscal year is fiscal year
2 2008, fiscal year 2001; or

3 “(iv) if the fiscal year is fiscal year
4 2009 or any succeeding fiscal year, the then
5 4th preceding fiscal year.”.

6 (c) *SUPERACHIEVER CREDIT*.—Section 407(b) (42
7 *U.S.C. 607(b)*) is amended by striking paragraphs (4) and
8 (5) and inserting the following:

9 “(4) *SUPERACHIEVER CREDIT*.—

10 “(A) *IN GENERAL*.—The participation rate,
11 determined under paragraphs (1) and (2) of this
12 subsection, of a superachiever State for a fiscal
13 year shall be increased by the lesser of—

14 “(i) the amount (if any) of the super-
15 achiever credit applicable to the State; or

16 “(ii) the number of percentage points
17 (if any) by which the minimum participa-
18 tion rate required by subsection (a) for the
19 fiscal year exceeds 50 percent.

20 “(B) *SUPERACHIEVER STATE*.—For pur-
21 poses of subparagraph (A), a State is a super-
22 achiever State if the State caseload for fiscal
23 year 2001 has declined by at least 60 percent
24 from the State caseload for fiscal year 1995.

1 “(C) *AMOUNT OF CREDIT.*—*The super-*
 2 *achiever credit applicable to a State is the num-*
 3 *ber of percentage points (if any) by which the de-*
 4 *cline referred to in subparagraph (B) exceeds 60*
 5 *percent.*

6 “(D) *DEFINITIONS.*—*In this paragraph:*

7 “(i) *STATE CASELOAD FOR FISCAL*
 8 *YEAR 2001.*—*The term ‘State caseload for*
 9 *fiscal year 2001’ means the average monthly*
 10 *number of families that received assistance*
 11 *during fiscal year 2001 under the State*
 12 *program funded under this part.*

13 “(ii) *STATE CASELOAD FOR FISCAL*
 14 *YEAR 1995.*—*The term ‘State caseload for*
 15 *fiscal year 1995’ means the average monthly*
 16 *number of families that received aid under*
 17 *the State plan approved under part A (as*
 18 *in effect on September 30, 1995) during fis-*
 19 *cal year 1995.’.*

20 “(d) *COUNTABLE HOURS.*—*Section 407 (42 U.S.C. 607)*
 21 *is amended by striking subsections (c) and (d) and insert-*
 22 *ing the following:*

23 “(c) *COUNTABLE HOURS.*—

24 “(1) *DEFINITION.*—*In subsection (b)(2), the term*
 25 *‘countable hours’ means, with respect to a family for*

1 *a month, the total number of hours in the month in*
2 *which any member of the family who is a work-eligi-*
3 *ble individual is engaged in a direct work activity or*
4 *other activities specified by the State (excluding an*
5 *activity that does not address a purpose specified in*
6 *section 401(a)), subject to the other provisions of this*
7 *subsection.*

8 *“(2) LIMITATIONS.—Subject to such regulations*
9 *as the Secretary may prescribe:*

10 *“(A) MINIMUM WEEKLY AVERAGE OF 24*
11 *HOURS OF DIRECT WORK ACTIVITIES RE-*
12 *QUIRED.—If the work-eligible individuals in a*
13 *family are engaged in a direct work activity for*
14 *an average total of fewer than 24 hours per week*
15 *in a month, then the number of countable hours*
16 *with respect to the family for the month shall be*
17 *zero.*

18 *“(B) MAXIMUM WEEKLY AVERAGE OF 16*
19 *HOURS OF OTHER ACTIVITIES.—An average of*
20 *not more than 16 hours per week of activities*
21 *specified by the State (subject to the exclusion de-*
22 *scribed in paragraph (1)) may be considered*
23 *countable hours in a month with respect to a*
24 *family.*

1 “(3) *SPECIAL RULES.*—*For purposes of para-*
2 *graph (1):*

3 “(A) *PARTICIPATION IN QUALIFIED ACTIVI-*
4 *TIES.*—

5 “(i) *IN GENERAL.*—*If, with the ap-*
6 *proval of the State, the work-eligible indi-*
7 *viduals in a family are engaged in 1 or*
8 *more qualified activities for an average*
9 *total of at least 24 hours per week in a*
10 *month, then all such engagement in the*
11 *month shall be considered engagement in a*
12 *direct work activity, subject to clause (iii).*

13 “(ii) *QUALIFIED ACTIVITY DEFINED.*—
14 *The term ‘qualified activity’ means an ac-*
15 *tivity specified by the State (subject to the*
16 *exclusion described in paragraph (1)) that*
17 *meets such standards and criteria as the*
18 *State may specify, including—*

19 “(I) *substance abuse counseling or*
20 *treatment;*

21 “(II) *rehabilitation treatment and*
22 *services;*

23 “(III) *work-related education or*
24 *training directed at enabling the fam-*
25 *ily member to work;*

1 “(IV) *job search or job readiness*
2 *assistance; and*

3 “(V) *any other activity that ad-*
4 *dresses a purpose specified in section*
5 *401(a).*

6 “(iii) *LIMITATION.—*

7 “(I) *IN GENERAL.—Except as pro-*
8 *vided in subclause (II), clause (i) shall*
9 *not apply to a family for more than 3*
10 *months in any period of 24 consecutive*
11 *months.*

12 “(II) *SPECIAL RULE APPLICABLE*
13 *TO EDUCATION AND TRAINING.—A*
14 *State may, on a case-by-case basis,*
15 *apply clause (i) to a work-eligible indi-*
16 *vidual so that participation by the in-*
17 *dividual in education or training, if*
18 *needed to permit the individual to*
19 *complete a certificate program or other*
20 *work-related education or training di-*
21 *rected at enabling the individual to fill*
22 *a known job need in a local area, may*
23 *be considered countable hours with re-*
24 *spect to the family of the individual for*

1 *not more than 4 months in any period*
 2 *of 24 consecutive months.*

3 “(B) *SCHOOL ATTENDANCE BY TEEN HEAD*
 4 *OF HOUSEHOLD.—The work-eligible members of*
 5 *a family shall be considered to be engaged in a*
 6 *direct work activity for an average of 40 hours*
 7 *per week in a month if the family includes an*
 8 *individual who is married, or is a single head*
 9 *of household, who has not attained 20 years of*
 10 *age, and the individual—*

11 “(i) *maintains satisfactory attendance*
 12 *at secondary school or the equivalent in the*
 13 *month; or*

14 “(ii) *participates in education directly*
 15 *related to employment for an average of at*
 16 *least 20 hours per week in the month.*

17 “(d) *DIRECT WORK ACTIVITY.—In this section, the*
 18 *term ‘direct work activity’ means—*

19 “(1) *unsubsidized employment;*

20 “(2) *subsidized private sector employment;*

21 “(3) *subsidized public sector employment;*

22 “(4) *on-the-job training;*

23 “(5) *supervised work experience; or*

24 “(6) *supervised community service.”.*

1 (e) *PENALTIES AGAINST INDIVIDUALS.*—Section
 2 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as fol-
 3 lows:

4 “(1) *REDUCTION OR TERMINATION OF ASSIST-*
 5 *ANCE.*—

6 “(A) *IN GENERAL.*—*Except as provided in*
 7 *paragraph (2), if an individual in a family re-*
 8 *ceiving assistance under a State program funded*
 9 *under this part fails to engage in activities re-*
 10 *quired in accordance with this section, or other*
 11 *activities required by the State under the pro-*
 12 *gram, and the family does not otherwise engage*
 13 *in activities in accordance with the self-suffi-*
 14 *ciency plan established for the family pursuant*
 15 *to section 408(b), the State shall—*

16 “(i) *if the failure is partial or persists*
 17 *for not more than 1 month—*

18 “(I) *reduce the amount of assist-*
 19 *ance otherwise payable to the family*
 20 *pro rata (or more, at the option of the*
 21 *State) with respect to any period dur-*
 22 *ing a month in which the failure oc-*
 23 *curs; or*

24 “(II) *terminate all assistance to*
 25 *the family, subject to such good cause*

1 *exceptions as the State may establish;*

2 *or*

3 “(ii) *if the failure is total and persists*
4 *for at least 2 consecutive months, terminate*
5 *all cash payments to the family including*
6 *qualified State expenditures (as defined in*
7 *section 409(a)(7)(B)(i)) for at least 1 month*
8 *and thereafter until the State determines*
9 *that the individual has resumed full par-*
10 *ticipation in the activities, subject to such*
11 *good cause exceptions as the State may es-*
12 *tablish.*

13 “(B) *SPECIAL RULE.—*

14 “(i) *IN GENERAL.—In the event of a*
15 *conflict between a requirement of clause*
16 *(i)(II) or (ii) of subparagraph (A) and a re-*
17 *quirement of a State constitution, or of a*
18 *State statute that, before 1966, obligated*
19 *local government to provide assistance to*
20 *needy parents and children, the State con-*
21 *stitutional or statutory requirement shall*
22 *control.*

23 “(ii) *LIMITATION.—Clause (i) of this*
24 *subparagraph shall not apply after the 1-*

1 *year period that begins with the date of the*
 2 *enactment of this subparagraph.”.*

3 *(f) CONFORMING AMENDMENTS.—*

4 *(1) Section 407(f) (42 U.S.C. 607(f)) is amended*
 5 *in each of paragraphs (1) and (2) by striking “work*
 6 *activity described in subsection (d)” and inserting*
 7 *“direct work activity”.*

8 *(2) The heading of section 409(a)(14) (42 U.S.C.*
 9 *609(a)(14)) is amended by inserting “OR REFUSING*
 10 *TO ENGAGE IN ACTIVITIES UNDER A FAMILY SELF-*
 11 *SUFFICIENCY PLAN” after “WORK”.*

12 **SEC. 8111. MAINTENANCE OF EFFORT.**

13 *(a) IN GENERAL.—Section 409(a)(7) (42 U.S.C.*
 14 *609(a)(7)) is amended—*

15 *(1) in subparagraph (A), by striking “fiscal year*
 16 *1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,*
 17 *2006, or 2007” and inserting “fiscal year 2006, 2007,*
 18 *2008, 2009, 2010, or 2011”; and*

19 *(2) in subparagraph (B)(ii)—*

20 *(A) by inserting “preceding” before “fiscal*
 21 *year”; and*

22 *(B) by striking “for fiscal years 1997*
 23 *through 2006,”.*

24 *(b) STATE SPENDING ON PROMOTING HEALTHY MAR-*
 25 *RIAGE.—*

1 (1) *IN GENERAL.*—Section 404 (42 U.S.C. 604)
2 is amended by adding at the end the following:

3 “(l) *MARRIAGE PROMOTION.*—A State, territory, or
4 tribal organization to which a grant is made under section
5 403(a)(2) may use a grant made to the State, territory, or
6 tribe under any other provision of section 403 for marriage
7 promotion activities, and the amount of any such grant so
8 used shall be considered State funds for purposes of section
9 403(a)(2).”.

10 (2) *FEDERAL TANF FUNDS USED FOR MARRIAGE*
11 *PROMOTION DISREGARDED FOR PURPOSES OF MAIN-*
12 *TENANCE OF EFFORT REQUIREMENT.*—Section
13 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)), as
14 amended by section 8103(c) of this Act, is amended
15 by adding at the end the following:

16 “(VI) *EXCLUSION OF FEDERAL*
17 *TANF FUNDS USED FOR MARRIAGE*
18 *PROMOTION ACTIVITIES.*—Such term
19 does not include the amount of any
20 grant made to the State under section
21 403 that is expended for a marriage
22 promotion activity.”.

23 **SEC. 8112. PERFORMANCE IMPROVEMENT.**

24 (a) *STATE PLANS.*—Section 402(a) (42 U.S.C. 602(a))
25 is amended—

1 (1) *in paragraph (1)*—

2 (A) *in subparagraph (A)*—

3 (i) *by redesignating clause (vi) and*
4 *clause (vii) (as added by section 8103(a) of*
5 *this Act) as clauses (vii) and (viii), respec-*
6 *tively; and*

7 (ii) *by striking clause (v) and insert-*
8 *ing the following:*

9 “(v) *The document shall—*

10 “(I) *describe how the State will*
11 *pursue ending dependence of needy*
12 *families on government benefits and re-*
13 *ducing poverty by promoting job prep-*
14 *aration and work;*

15 “(II) *describe how the State will*
16 *encourage the formation and mainte-*
17 *nance of healthy 2-parent married*
18 *families, encourage responsible father-*
19 *hood, and prevent and reduce the inci-*
20 *dence of out-of-wedlock pregnancies;*

21 “(III) *include specific, numerical,*
22 *and measurable performance objectives*
23 *for accomplishing subclauses (I) and*
24 *(II); and*

1 “(IV) describe the methodology
2 that the State will use to measure
3 State performance in relation to each
4 such objective.

5 “(vi) Describe any strategies and pro-
6 grams the State may be undertaking to ad-
7 dress—

8 “(I) employment retention and
9 advancement for recipients of assist-
10 ance under the program, including
11 placement into high-demand jobs, and
12 whether the jobs are identified using
13 labor market information;

14 “(II) efforts to reduce teen preg-
15 nancy;

16 “(III) services for struggling and
17 noncompliant families, and for clients
18 with special problems; and

19 “(IV) program integration, in-
20 cluding the extent to which employ-
21 ment and training services under the
22 program are provided through the One-
23 Stop delivery system created under the
24 Workforce Investment Act of 1998, and
25 the extent to which former recipients of

1 *such assistance have access to addi-*
 2 *tional core, intensive, or training serv-*
 3 *ices funded through such Act.”; and*

4 *(B) in subparagraph (B), by striking clause*
 5 *(iii) (as so redesignated by section 8107(b)(1) of*
 6 *this Act) and inserting the following:*

7 *“(iii) The document shall describe*
 8 *strategies and programs the State is under-*
 9 *taking to engage religious organizations in*
 10 *the provision of services funded under this*
 11 *part and efforts related to section 104 of the*
 12 *Personal Responsibility and Work Oppor-*
 13 *tunity Reconciliation Act of 1996.*

14 *“(iv) The document shall describe*
 15 *strategies to improve program management*
 16 *and performance.”; and*

17 *(2) in paragraph (4), by inserting “and tribal”*
 18 *after “that local”.*

19 *(b) CONSULTATION WITH STATE REGARDING PLAN*
 20 *AND DESIGN OF TRIBAL PROGRAMS.—Section 412(b)(1)*
 21 *(42 U.S.C. 612(b)(1)) is amended—*

22 *(1) by striking “and” at the end of subpara-*
 23 *graph (E);*

24 *(2) by striking the period at the end of subpara-*
 25 *graph (F) and inserting “; and”; and*

1 (3) *by adding at the end the following:*

2 “(G) *provides an assurance that the State*
3 *in which the tribe is located has been consulted*
4 *regarding the plan and its design.*”.

5 (c) *PERFORMANCE MEASURES.*—Section 413 (42
6 *U.S.C. 613)* is amended by adding at the end the following:

7 “(k) *PERFORMANCE IMPROVEMENT.*—The Secretary,
8 *in consultation with the States, shall develop uniform per-*
9 *formance measures designed to assess the degree of effective-*
10 *ness, and the degree of improvement, of State programs*
11 *funded under this part in accomplishing the purposes of*
12 *this part.*”.

13 (d) *ANNUAL RANKING OF STATES.*—Section 413(d)(1)
14 (42 *U.S.C. 613(d)(1)*) is amended by striking “*long-term*
15 *private sector jobs*” and inserting “*private sector jobs, the*
16 *success of the recipients in retaining employment, the abil-*
17 *ity of the recipients to increase their wages*”.

18 **SEC. 8113. DATA COLLECTION AND REPORTING.**

19 (a) *CONTENTS OF REPORT.*—Section 411(a)(1)(A) (42
20 *U.S.C. 611(a)(1)(A)*) is amended—

21 (1) *in the matter preceding clause (i), by insert-*
22 *ing “and on families receiving assistance under State*
23 *programs funded with other qualified State expendi-*
24 *tures (as defined in section 409(a)(7)(B))” before the*
25 *colon;*

1 (2) *in clause (vii), by inserting “and minor par-*
2 *ent” after “of each adult”;*

3 (3) *in clause (viii), by striking “and educational*
4 *level”;*

5 (4) *in clause (ix), by striking “, and if the latter*
6 *2, the amount received”;*

7 (5) *in clause (x)—*

8 (A) *by striking “each type of”;* and

9 (B) *by inserting before the period “and, if*
10 *applicable, the reason for receipt of the assistance*
11 *for a total of more than 60 months”;*

12 (6) *in clause (xi), by striking the subclauses and*
13 *inserting the following:*

14 (I) *Subsidized private sector em-*
15 *ployment.*

16 (II) *Unsubsidized employment.*

17 (III) *Public sector employment,*
18 *supervised work experience, or super-*
19 *vised community service.*

20 (IV) *On-the-job training.*

21 (V) *Job search and placement.*

22 (VI) *Training.*

23 (VII) *Education.*

24 (VIII) *Other activities directed*
25 *at the purposes of this part, as speci-*

1 *fied in the State plan submitted pursu-*
 2 *ant to section 402.”;*

3 *(7) in clause (xii), by inserting “and progress to-*
 4 *ward universal engagement” after “participation*
 5 *rates”;*

6 *(8) in clause (xiii), by striking “type and”;*

7 *(9) in clause (xvi), by striking subclause (II)*
 8 *and redesignating subclauses (III) through (V) as sub-*
 9 *clauses (II) through (IV), respectively; and*

10 *(10) by adding at the end the following:*

11 *“(xviii) The date the family first re-*
 12 *ceived assistance from the State program on*
 13 *the basis of the most recent application for*
 14 *such assistance.*

15 *“(xix) Whether a self-sufficiency plan*
 16 *is established for the family in accordance*
 17 *with section 408(b).*

18 *“(xx) With respect to any child in the*
 19 *family, the marital status of the parents at*
 20 *the birth of the child, and if the parents*
 21 *were not then married, whether the pater-*
 22 *ernity of the child has been established.”.*

23 **(b) USE OF SAMPLES.—***Section 411(a)(1)(B) (42*
 24 *U.S.C. 611(a)(1)(B)) is amended—*

25 *(1) in clause (i)—*

1 (A) by striking “a sample” and inserting
2 “samples”; and

3 (B) by inserting before the period “, except
4 that the Secretary may designate core data ele-
5 ments that must be reported on all families”;
6 and

7 (2) in clause (ii), by striking “funded under this
8 part” and inserting “described in subparagraph (A)”.

9 (c) *REPORT ON FAMILIES THAT BECOME INELIGIBLE*
10 *TO RECEIVE ASSISTANCE.*—Section 411(a) (42 U.S.C.
11 *611(a)) is amended—*

12 (1) by striking paragraph (5);

13 (2) by redesignating paragraph (6) as para-
14 graph (5); and

15 (3) by inserting after paragraph (5) (as so redesi-
16 gnated) the following:

17 “(6) *REPORT ON FAMILIES THAT BECOME INELI-*
18 *GIBLE TO RECEIVE ASSISTANCE.*—*The report required*
19 *by paragraph (1) for a fiscal quarter shall include for*
20 *each month in the quarter the number of families and*
21 *total number of individuals that, during the month,*
22 *became ineligible to receive assistance under the State*
23 *program funded under this part (broken down by the*
24 *number of families that become so ineligible due to*
25 *earnings, changes in family composition that result*

1 *in increased earnings, sanctions, time limits, or other*
2 *specified reasons).”.*

3 (d) *REGULATIONS.—Section 411(a)(7) (42 U.S.C.*
4 *611(a)(7)) is amended—*

5 (1) *by inserting “and to collect the necessary*
6 *data” before “with respect to which reports”;*

7 (2) *by striking “subsection” and inserting “sec-*
8 *tion”;* and

9 (3) *by striking “in defining the data elements”*
10 *and all that follows and inserting “, the National*
11 *Governors’ Association, the American Public Human*
12 *Services Association, the National Conference of State*
13 *Legislatures, and others in defining the data ele-*
14 *ments.”.*

15 (e) *ADDITIONAL REPORTS BY STATES.—Section 411*
16 *(42 U.S.C. 611) is amended—*

17 (1) *by redesignating subsection (b) as subsection*
18 *(e); and*

19 (2) *by inserting after subsection (a) the fol-*
20 *lowing:*

21 *“(b) ANNUAL REPORTS ON PROGRAM CHARACTERIS-*
22 *TICS.—Not later than 90 days after the end of fiscal year*
23 *2006 and each succeeding fiscal year, each eligible State*
24 *shall submit to the Secretary a report on the characteristics*
25 *of the State program funded under this part and other State*

1 *programs funded with qualified State expenditures (as de-*
2 *fin ed in section 409(a)(7)(B)(i)). The report shall include,*
3 *with respect to each such program, the program name, a*
4 *description of program activities, the program purpose, the*
5 *program eligibility criteria, the sources of program funding,*
6 *the number of program beneficiaries, sanction policies, and*
7 *any program work requirements.*

8 “(c) *MONTHLY REPORTS ON CASELOAD.*—*Not later*
9 *than 3 months after the end of a calendar month that begins*
10 *1 year or more after the enactment of this subsection, each*
11 *eligible State shall submit to the Secretary a report on the*
12 *number of families and total number of individuals receiv-*
13 *ing assistance in the calendar month under the State pro-*
14 *gram funded under this part.*

15 “(d) *ANNUAL REPORT ON PERFORMANCE IMPROVE-*
16 *MENT.*—*Beginning with fiscal year 2007, not later than*
17 *January 1 of each fiscal year, each eligible State shall sub-*
18 *mit to the Secretary a report on achievement and improve-*
19 *ment during the preceding fiscal year under the numerical*
20 *performance goals and measures under the State program*
21 *funded under this part with respect to each of the matters*
22 *described in section 402(a)(1)(A)(v).”.*

23 “(f) *ANNUAL REPORTS TO CONGRESS BY THE SEC-*
24 *RETARY.*—*Section 411(e), as so redesignated by subsection*
25 *(e) of this section, is amended—*

1 (1) *in the matter preceding paragraph (1), by*
2 *striking “and each fiscal year thereafter” and insert-*
3 *ing “and by July 1 of each fiscal year thereafter”;*

4 (2) *in paragraph (2), by striking “families ap-*
5 *plying for assistance,” and by striking the last*
6 *comma; and*

7 (3) *in paragraph (3), by inserting “and other*
8 *programs funded with qualified State expenditures*
9 *(as defined in section 409(a)(7)(B)(i))” before the*
10 *semicolon.*

11 (g) *INCREASED ANALYSIS OF STATE SINGLE AUDIT*
12 *REPORTS.—Section 411 (42 U.S.C. 611) is amended by*
13 *adding at the end the following:*

14 “(f) *INCREASED ANALYSIS OF STATE SINGLE AUDIT*
15 *REPORTS.—*

16 “(1) *IN GENERAL.—Within 3 months after a*
17 *State submits to the Secretary a report pursuant to*
18 *section 7502(a)(1)(A) of title 31, United States Code,*
19 *the Secretary shall analyze the report for the purpose*
20 *of identifying the extent and nature of problems re-*
21 *lated to the oversight by the State of nongovernmental*
22 *entities with respect to contracts entered into by such*
23 *entities with the State program funded under this*
24 *part, and determining what additional actions may*

1 *be appropriate to help prevent and correct the prob-*
2 *lems.*

3 “(2) *INCLUSION OF PROGRAM OVERSIGHT SEC-*
4 *TION IN ANNUAL REPORT TO THE CONGRESS.—The*
5 *Secretary shall include in each report under sub-*
6 *section (e) a section on oversight of State programs*
7 *funded under this part, including findings on the ex-*
8 *tent and nature of the problems referred to in para-*
9 *graph (1), actions taken to resolve the problems, and*
10 *to the extent the Secretary deems appropriate make*
11 *recommendations on changes needed to resolve the*
12 *problems.”.*

13 **SEC. 8114. DIRECT FUNDING AND ADMINISTRATION BY IN-**
14 **DIAN TRIBES.**

15 (a) *TRIBAL FAMILY ASSISTANCE GRANT.—Section*
16 *412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by strik-*
17 *ing “1997, 1998, 1999, 2000, 2001, 2002, and 2003” and*
18 *inserting “2006 through 2010”.*

19 (b) *GRANTS FOR INDIAN TRIBES THAT RECEIVED*
20 *JOBS FUNDS.—Section 412(a)(2)(A) (42 U.S.C.*
21 *612(a)(2)(A)) is amended by striking “1997, 1998, 1999,*
22 *2000, 2001, 2002, and 2003” and inserting “2006 through*
23 *2010”.*

1 **SEC. 8115. RESEARCH, EVALUATIONS, AND NATIONAL STUD-**
2 **IES.**

3 (a) *SECRETARY'S FUND FOR RESEARCH, DEMONSTRA-*
4 *TIONS, AND TECHNICAL ASSISTANCE.*—Section 413 (42
5 U.S.C. 613), as amended by section 8112(c) of this Act, is
6 further amended by adding at the end the following:

7 “(l) *FUNDING FOR RESEARCH, DEMONSTRATIONS, AND*
8 *TECHNICAL ASSISTANCE.*—

9 “(1) *APPROPRIATION.*—Out of any money in the
10 *Treasury of the United States not otherwise appro-*
11 *priated, there are appropriated \$102,000,000 for each*
12 *of fiscal years 2006 through 2010, which shall be*
13 *available to the Secretary for the purpose of con-*
14 *ducting and supporting research and demonstration*
15 *projects by public or private entities, and providing*
16 *technical assistance to States, Indian tribal organiza-*
17 *tions, and such other entities as the Secretary may*
18 *specify that are receiving a grant under this part,*
19 *which shall be expended primarily on activities de-*
20 *scribed in section 403(a)(2)(B), and which shall be in*
21 *addition to any other funds made available under*
22 *this part. The Secretary may not provide an entity*
23 *with funds made available under this paragraph un-*
24 *less the entity agrees that, as a condition of receipt*
25 *of the funds for a program or activity described in*
26 *any of clauses (iii) through (viii) of section*

1 403(a)(2)(B), the entity will comply with subclauses
2 (I) and (II) of section 403(a)(2)(C)(ii).

3 “(2) SET ASIDE FOR DEMONSTRATION PROJECTS
4 FOR COORDINATION OF PROVISION OF CHILD WEL-
5 FARE AND TANF SERVICES TO TRIBAL FAMILIES AT
6 RISK OF CHILD ABUSE OR NEGLECT.—

7 “(A) IN GENERAL.—Of the amounts made
8 available under paragraph (1) for a fiscal year,
9 \$2,000,000 shall be awarded on a competitive
10 basis to fund demonstration projects designed to
11 test the effectiveness of tribal governments or
12 tribal consortia in coordinating the provision to
13 tribal families at risk of child abuse or neglect
14 of child welfare services and services under tribal
15 programs funded under this part.

16 “(B) USE OF FUNDS.—A grant made to
17 such a project shall be used—

18 “(i) to improve case management for
19 families eligible for assistance from such a
20 tribal program;

21 “(ii) for supportive services and assist-
22 ance to tribal children in out-of-home place-
23 ments and the tribal families caring for
24 such children, including families who adopt
25 such children; and

1 “(iii) for prevention services and as-
2 sistance to tribal families at risk of child
3 abuse and neglect.

4 “(C) *REPORTS.*—The Secretary may require
5 a recipient of funds awarded under this para-
6 graph to provide the Secretary with such infor-
7 mation as the Secretary deems relevant to enable
8 the Secretary to facilitate and oversee the admin-
9 istration of any project for which funds are pro-
10 vided under this paragraph.”.

11 (b) *FUNDING OF STUDIES AND DEMONSTRATIONS.*—
12 Section 413(h)(1) (42 U.S.C. 613(h)(1)) is amended in the
13 matter preceding subparagraph (A) by striking “1997
14 through 2002” and inserting “2006 through 2010”.

15 (c) *REPORT ON ENFORCEMENT OF CERTAIN AFFIDA-*
16 *VITS OF SUPPORT AND SPONSOR DEEMING.*—Not later than
17 March 31, 2006, the Secretary of Health and Human Serv-
18 ices, in consultation with the Attorney General, shall sub-
19 mit to the Congress a report on the enforcement of affidavits
20 of support and sponsor deeming as required by section 421,
21 422, and 432 of the Personal Responsibility and Work Op-
22 portunity Reconciliation Act of 1996.

23 (d) *REPORT ON COORDINATION.*—Not later than 6
24 months after the date of the enactment of this Act, the Sec-
25 retary of Health and Human Services and the Secretary

1 of Labor shall jointly submit a report to the Congress de-
2 scribing common or conflicting data elements, definitions,
3 performance measures, and reporting requirements in the
4 Workforce Investment Act of 1998 and part A of title IV
5 of the Social Security Act, and, to the degree each Secretary
6 deems appropriate, at the discretion of either Secretary,
7 any other program administered by the respective Sec-
8 retary, to allow greater coordination between the welfare
9 and workforce development systems.

10 **SEC. 8116. STUDY BY THE CENSUS BUREAU.**

11 (a) *IN GENERAL.*—Section 414(a) (42 U.S.C. 614(a))
12 is amended to read as follows:

13 “(a) *IN GENERAL.*—The Bureau of the Census shall
14 implement or enhance a longitudinal survey of program
15 participation, developed in consultation with the Secretary
16 and made available to interested parties, to allow for the
17 assessment of the outcomes of continued welfare reform on
18 the economic and child well-being of low-income families
19 with children, including those who received assistance or
20 services from a State program funded under this part, and,
21 to the extent possible, shall provide State representative
22 samples. The content of the survey should include such in-
23 formation as may be necessary to examine the issues of out-
24 of-wedlock childbearing, marriage, welfare dependency and
25 compliance with work requirements, the beginning and end-

1 *ing of spells of assistance, work, earnings and employment*
2 *stability, and the well-being of children.”.*

3 (b) *APPROPRIATION.*—Section 414(b) (42 U.S.C.
4 614(b)) *is amended—*

5 (1) *by striking “1996,” and all that follows*
6 *through “2003” and inserting “2006 through 2010”;*
7 *and*

8 (2) *by adding at the end the following: “Funds*
9 *appropriated under this subsection shall remain*
10 *available through fiscal year 2010 to carry out sub-*
11 *section (a).”.*

12 **SEC. 8117. DEFINITION OF ASSISTANCE.**

13 (a) *IN GENERAL.*—Section 419 (42 U.S.C. 619) *is*
14 *amended by adding at the end the following:*

15 “(6) *ASSISTANCE.*—

16 “(A) *IN GENERAL.*—The term ‘assistance’
17 *means payment, by cash, voucher, or other*
18 *means, to or for an individual or family for the*
19 *purpose of meeting a subsistence need of the in-*
20 *dividual or family (including food, clothing,*
21 *shelter, and related items, but not including costs*
22 *of transportation or child care).*

23 “(B) *EXCEPTION.*—The term ‘assistance’
24 *does not include a payment described in sub-*
25 *paragraph (A) to or for an individual or family*

1 *on a short-term, nonrecurring basis (as defined*
2 *by the State in accordance with regulations pre-*
3 *scribed by the Secretary).”.*

4 **(b) CONFORMING AMENDMENTS.—**

5 (1) *Section 404(a)(1) (42 U.S.C. 604(a)(1)) is*
6 *amended by striking “assistance” and inserting*
7 *“aid”.*

8 (2) *Section 404(f) (42 U.S.C. 604(f)) is amended*
9 *by striking “assistance” and inserting “benefits or*
10 *services”.*

11 (3) *Section 408(a)(5)(B)(i) (42 U.S.C.*
12 *608(a)(5)(B)(i)) is amended in the heading by strik-*
13 *ing “ASSISTANCE” and inserting “AID”.*

14 (4) *Section 413(d)(2) (42 U.S.C. 613(d)(2)) is*
15 *amended by striking “assistance” and inserting*
16 *“aid”.*

17 **SEC. 8118. TECHNICAL CORRECTIONS.**

18 (a) *Section 409(c)(2) (42 U.S.C. 609(c)(2)) is amended*
19 *by inserting a comma after “appropriate”.*

20 (b) *Section 411(a)(1)(A)(ii)(III) (42 U.S.C.*
21 *611(a)(1)(A)(ii)(III)) is amended by striking the last close*
22 *parenthesis.*

23 (c) *Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is*
24 *amended by striking “section” and inserting “sections”.*

1 (d)(1) *Section 413 (42 U.S.C. 613) is amended by*
2 *striking subsection (g) and redesignating subsections (h)*
3 *through (j) and subsections (k) and (l) (as added by sections*
4 *8112(c) and 8115(a) of this Act, respectively) as subsections*
5 *(g) through (k), respectively.*

6 (2) *Each of the following provisions is amended by*
7 *striking “413(j)” and inserting “413(i)”:*

8 (A) *Section 403(a)(5)(A)(ii)(III) (42 U.S.C.*
9 *603(a)(5)(A)(ii)(III)).*

10 (B) *Section 403(a)(5)(F) (42 U.S.C.*
11 *603(a)(5)(F)).*

12 (C) *Section 403(a)(5)(G)(ii) (42 U.S.C.*
13 *603(a)(5)(G)(ii)).*

14 (D) *Section 412(a)(3)(B)(iv) (42 U.S.C.*
15 *612(a)(3)(B)(iv)).*

16 **SEC. 8119. FATHERHOOD PROGRAM.**

17 (a) *SHORT TITLE.—This section may be cited as the*
18 *“Promotion and Support of Responsible Fatherhood and*
19 *Healthy Marriage Act of 2005”.*

20 (b) *FATHERHOOD PROGRAM.—*

21 (1) *IN GENERAL.—Title I of the Personal Re-*
22 *sponsibility and Work Opportunity Reconciliation*
23 *Act of 1996 (Public Law 104–193) is amended by*
24 *adding at the end the following:*

1 **“SEC. 117. FATHERHOOD PROGRAM.**

2 “(a) *IN GENERAL.*—Title IV (42 U.S.C. 601–679b) is
3 amended by inserting after part B the following:

4 **‘PART C—FATHERHOOD PROGRAM**

5 **‘SEC. 441. FINDINGS AND PURPOSES.**

6 ‘(a) *FINDINGS.*—The Congress finds that there is sub-
7 stantial evidence strongly indicating the urgent need to pro-
8 mote and support involved, committed, and responsible fa-
9 therhood, and to encourage and support healthy marriages
10 between parents raising children, including data dem-
11 onstrating the following:

12 ‘(1) *In approximately 84 percent of cases where*
13 *a parent is absent, that parent is the father.*

14 ‘(2) *If current trends continue, half of all chil-*
15 *dren born today will live apart from one of their par-*
16 *ents, usually their father, at some point before they*
17 *turn 18.*

18 ‘(3) *Where families (whether intact or with a*
19 *parent absent) are living in poverty, a significant*
20 *factor is the father’s lack of job skills.*

21 ‘(4) *Committed and responsible fathering during*
22 *infancy and early childhood contributes to the devel-*
23 *opment of emotional security, curiosity, and math*
24 *and verbal skills.*

25 ‘(5) *An estimated 19,400,000 children (27 per-*
26 *cent) live apart from their biological father.*

1 ‘(6) *Forty percent of children under age 18 not*
2 *living with their biological father had not seen their*
3 *father even once in the last 12 months, according to*
4 *national survey data.*

5 ‘(b) *PURPOSES.—The purposes of this part are:*

6 ‘(1) *To provide for projects and activities by*
7 *public entities and by nonprofit community entities,*
8 *including religious organizations, designed to test*
9 *promising approaches to accomplishing the following*
10 *objectives:*

11 ‘(A) *Promoting responsible, caring, and ef-*
12 *fective parenting through counseling, mentoring,*
13 *and parenting education, dissemination of edu-*
14 *cational materials and information on parenting*
15 *skills, encouragement of positive father involve-*
16 *ment, including the positive involvement of non-*
17 *resident fathers, and other methods.*

18 ‘(B) *Enhancing the abilities and commit-*
19 *ment of unemployed or low-income fathers to*
20 *provide material support for their families and*
21 *to avoid or leave welfare programs by assisting*
22 *them to take full advantage of education, job*
23 *training, and job search programs, to improve*
24 *work habits and work skills, to secure career ad-*
25 *vancement by activities such as outreach and in-*

1 *formation dissemination, coordination, as appro-*
2 *priate, with employment services and job train-*
3 *ing programs, including the One-Stop delivery*
4 *system established under title I of the Workforce*
5 *Investment Act of 1998, encouragement and sup-*
6 *port of timely payment of current child support*
7 *and regular payment toward past due child sup-*
8 *port obligations in appropriate cases, and other*
9 *methods.*

10 *‘(C) Improving fathers’ ability to effectively*
11 *manage family business affairs by means such as*
12 *education, counseling, and mentoring in matters*
13 *including household management, budgeting,*
14 *banking, and handling of financial transactions,*
15 *time management, and home maintenance.*

16 *‘(D) Encouraging and supporting healthy*
17 *marriages and married fatherhood through such*
18 *activities as premarital education, including the*
19 *use of premarital inventories, marriage prepara-*
20 *tion programs, skills-based marriage education*
21 *programs, marital therapy, couples counseling,*
22 *divorce education and reduction programs, di-*
23 *vorice mediation and counseling, relationship*
24 *skills enhancement programs, including those de-*
25 *signed to reduce child abuse and domestic vio-*

1 *lence, and dissemination of information about*
2 *the benefits of marriage for both parents and*
3 *children.*

4 *‘(2) Through the projects and activities described*
5 *in paragraph (1), to improve outcomes for children*
6 *with respect to measures such as increased family in-*
7 *come and economic security, improved school per-*
8 *formance, better health, improved emotional and be-*
9 *havioral stability and social adjustment, and reduced*
10 *risk of delinquency, crime, substance abuse, child*
11 *abuse and neglect, teen sexual activity, and teen sui-*
12 *cide.*

13 *‘(3) To evaluate the effectiveness of various ap-*
14 *proaches and to disseminate findings concerning out-*
15 *comes and other information in order to encourage*
16 *and facilitate the replication of effective approaches to*
17 *accomplishing these objectives.*

18 **‘SEC. 442. DEFINITIONS.**

19 *‘In this part, the terms “Indian tribe” and “tribal or-*
20 *ganization” have the meanings given them in subsections*
21 *(e) and (l), respectively, of section 4 of the Indian Self-De-*
22 *termination and Education Assistance Act.*

23 **‘SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.**

24 *‘(a) IN GENERAL.—The Secretary may make grants*
25 *for fiscal years 2006 through 2010 to public and nonprofit*

1 *community entities, including religious organizations, and*
2 *to Indian tribes and tribal organizations, for demonstration*
3 *service projects and activities designed to test the effective-*
4 *ness of various approaches to accomplish the objectives spec-*
5 *ified in section 441(b)(1).*

6 ‘(b) *ELIGIBILITY CRITERIA FOR FULL SERVICE*
7 *GRANTS.—In order to be eligible for a grant under this sec-*
8 *tion, except as specified in subsection (c), an entity shall*
9 *submit an application to the Secretary containing the fol-*
10 *lowing:*

11 ‘(1) *PROJECT DESCRIPTION.—A statement in-*
12 *cluding—*

13 ‘(A) *a description of the project and how it*
14 *will be carried out, including the geographical*
15 *area to be covered and the number and charac-*
16 *teristics of clients to be served, and how it will*
17 *address each of the 4 objectives specified in sec-*
18 *tion 441(b)(1); and*

19 ‘(B) *a description of the methods to be used*
20 *by the entity or its contractor to assess the extent*
21 *to which the project was successful in accom-*
22 *plishing its specific objectives and the general ob-*
23 *jectives specified in section 441(b)(1).*

24 ‘(2) *EXPERIENCE AND QUALIFICATIONS.—A dem-*
25 *onstration of ability to carry out the project, by*

1 *means such as demonstration of experience in success-*
2 *fully carrying out projects of similar design and*
3 *scope, and such other information as the Secretary*
4 *may find necessary to demonstrate the entity's capac-*
5 *ity to carry out the project, including the entity's*
6 *ability to provide the non-Federal share of project re-*
7 *sources.*

8 *'(3) ADDRESSING CHILD ABUSE AND NEGLECT*
9 *AND DOMESTIC VIOLENCE.—A description of how the*
10 *entity will assess for the presence of, and intervene to*
11 *resolve, domestic violence and child abuse and neglect,*
12 *including how the entity will coordinate with State*
13 *and local child protective service and domestic vio-*
14 *lence programs.*

15 *'(4) ADDRESSING CONCERNS RELATING TO SUB-*
16 *STANCE ABUSE AND SEXUAL ACTIVITY.—A commit-*
17 *ment to make available to each individual partici-*
18 *parting in the project education about alcohol, tobacco,*
19 *and other drugs, and about the health risks associated*
20 *with abusing such substances, and information about*
21 *diseases and conditions transmitted through substance*
22 *abuse and sexual contact, including HIV/AIDS, and*
23 *to coordinate with providers of services addressing*
24 *such problems, as appropriate.*

1 ‘(5) *COORDINATION WITH SPECIFIED PRO-*
2 *GRAMS.—An undertaking to coordinate, as appro-*
3 *priate, with State and local entities responsible for*
4 *the programs under parts A, B, and D of this title,*
5 *including programs under title I of the Workforce In-*
6 *vestment Act of 1998 (including the One-Stop delivery*
7 *system), and such other programs as the Secretary*
8 *may require.*

9 ‘(6) *RECORDS, REPORTS, AND AUDITS.—An*
10 *agreement to maintain such records, make such re-*
11 *ports, and cooperate with such reviews or audits as*
12 *the Secretary may find necessary for purposes of over-*
13 *sight of project activities and expenditures.*

14 ‘(7) *SELF-INITIATED EVALUATION.—If the entity*
15 *elects to contract for independent evaluation of the*
16 *project (part or all of the cost of which may be paid*
17 *for using grant funds), a commitment to submit to*
18 *the Secretary a copy of the evaluation report within*
19 *30 days after completion of the report and not more*
20 *than 1 year after completion of the project.*

21 ‘(8) *COOPERATION WITH SECRETARY’S OVER-*
22 *SIGHT AND EVALUATION.—An agreement to cooperate*
23 *with the Secretary’s evaluation of projects assisted*
24 *under this section, by means including random as-*
25 *signment of clients to service recipient and control*

1 *groups, if determined by the Secretary to be appro-*
2 *priate, and affording the Secretary access to the*
3 *project and to project-related records and documents,*
4 *staff, and clients.*

5 *‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE*
6 *GRANTS.—In order to be eligible for a grant under this sec-*
7 *tion in an amount under \$25,000 per fiscal year, an entity*
8 *shall submit an application to the Secretary containing the*
9 *following:*

10 *‘(1) PROJECT DESCRIPTION.—A description of*
11 *the project and how it will be carried out, including*
12 *the number and characteristics of clients to be served,*
13 *the proposed duration of the project, and how it will*
14 *address at least 1 of the 4 objectives specified in sec-*
15 *tion 441(b)(1).*

16 *‘(2) QUALIFICATIONS.—Such information as the*
17 *Secretary may require as to the capacity of the entity*
18 *to carry out the project, including any previous expe-*
19 *rience with similar activities.*

20 *‘(3) COORDINATION WITH RELATED PRO-*
21 *GRAMS.—As required by the Secretary in appropriate*
22 *cases, an undertaking to coordinate and cooperate*
23 *with State and local entities responsible for specific*
24 *programs relating to the objectives of the project in-*

1 *cluding, as appropriate, jobs programs and programs*
2 *servng children and families.*

3 *‘(4) RECORDS, REPORTS, AND AUDITS.—An*
4 *agreement to maintain such records, make such re-*
5 *ports, and cooperate with such reviews or audits as*
6 *the Secretary may find necessary for purposes of over-*
7 *sight of project activities and expenditures.*

8 *‘(5) COOPERATION WITH SECRETARY’S OVER-*
9 *SIGHT AND EVALUATION.—An agreement to cooperate*
10 *with the Secretary’s evaluation of projects assisted*
11 *under this section, by means including affording the*
12 *Secretary access to the project and to project-related*
13 *records and documents, staff, and clients.*

14 *‘(d) CONSIDERATIONS IN AWARDING GRANTS.—*

15 *‘(1) DIVERSITY OF PROJECTS.—In awarding*
16 *grants under this section, the Secretary shall seek to*
17 *achieve a balance among entities of differing sizes, en-*
18 *tities in differing geographic areas, entities in urban*
19 *and in rural areas, and entities employing differing*
20 *methods of achieving the purposes of this section, in-*
21 *cluding working with the State agency responsible for*
22 *the administration of part D to help fathers satisfy*
23 *child support arrearage obligations.*

24 *‘(2) PREFERENCE FOR PROJECTS SERVING LOW-*
25 *INCOME FATHERS.—In awarding grants under this*

1 *section, the Secretary may give preference to applica-*
 2 *tions for projects in which a majority of the clients*
 3 *to be served are low-income fathers.*

4 *‘(e) FEDERAL SHARE.—*

5 *‘(1) IN GENERAL.—Grants for a project under*
 6 *this section for a fiscal year shall be available for a*
 7 *share of the cost of such project in such fiscal year*
 8 *equal to—*

9 *‘(A) up to 80 percent (or up to 90 percent,*
 10 *if the entity demonstrates to the Secretary’s sat-*
 11 *isfaction circumstances limiting the entity’s abil-*
 12 *ity to secure non-Federal resources) in the case*
 13 *of a project under subsection (b); and*

14 *‘(B) up to 100 percent, in the case of a*
 15 *project under subsection (c).*

16 *‘(2) NON-FEDERAL SHARE.—The non-Federal*
 17 *share may be in cash or in kind. In determining the*
 18 *amount of the non-Federal share, the Secretary may*
 19 *attribute fair market value to goods, services, and fa-*
 20 *cilities contributed from non-Federal sources.*

21 **‘SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**
 22 **PROJECTS.**

23 *‘(a) IN GENERAL.—The Secretary may make grants*
 24 *under this section for fiscal years 2006 through 2010 to eli-*
 25 *gible entities (as specified in subsection (b)) for 2 multicity,*

1 *multistate projects demonstrating approaches to achieving*
2 *the objectives specified in section 441(b)(1). One of the*
3 *projects shall test the use of married couples to deliver pro-*
4 *gram services.*

5 ‘(b) *ELIGIBLE ENTITIES.*—*An entity eligible for a*
6 *grant under this section must be a national nonprofit fa-*
7 *therhood promotion organization that meets the following*
8 *requirements:*

9 ‘(1) *EXPERIENCE WITH FATHERHOOD PRO-*
10 *GRAMS.*—*The organization must have substantial ex-*
11 *perience in designing and successfully conducting*
12 *programs that meet the purposes described in section*
13 *441.*

14 ‘(2) *EXPERIENCE WITH MULTICITY, MULTISTATE*
15 *PROGRAMS AND GOVERNMENT COORDINATION.*—*The*
16 *organization must have experience in simultaneously*
17 *conducting such programs in more than 1 major met-*
18 *ropolitan area in more than 1 State and in coordi-*
19 *nating such programs, where appropriate, with State*
20 *and local government agencies and private, nonprofit*
21 *agencies (including community-based and religious*
22 *organizations), including State or local agencies re-*
23 *sponsible for child support enforcement and workforce*
24 *development.*

1 ‘(c) *APPLICATION REQUIREMENTS.*—*In order to be eli-*
2 *gible for a grant under this section, an entity must submit*
3 *to the Secretary an application that includes the following:*

4 ‘(1) *QUALIFICATIONS.*—

5 ‘(A) *ELIGIBLE ENTITY.*—*A demonstration*
6 *that the entity meets the requirements of sub-*
7 *section (b).*

8 ‘(B) *OTHER.*—*Such other information as*
9 *the Secretary may find necessary to demonstrate*
10 *the entity’s capacity to carry out the project, in-*
11 *cluding the entity’s ability to provide the non-*
12 *Federal share of project resources.*

13 ‘(2) *PROJECT DESCRIPTION.*—*A description of*
14 *and commitments concerning the project design, in-*
15 *cluding the following:*

16 ‘(A) *IN GENERAL.*—*A detailed description of*
17 *the proposed project design and how it will be*
18 *carried out, which shall—*

19 ‘(i) *provide for the project to be con-*
20 *ducted in at least 3 major metropolitan*
21 *areas;*

22 ‘(ii) *state how it will address each of*
23 *the 4 objectives specified in section*
24 *441(b)(1);*

1 ‘(iii) demonstrate that there is a suffi-
2 cient number of potential clients to allow
3 for the random selection of individuals to
4 participate in the project and for compari-
5 sons with appropriate control groups com-
6 posed of individuals who have not partici-
7 pated in such projects; and

8 ‘(iv) demonstrate that the project is de-
9 signed to direct a majority of project re-
10 sources to activities serving low-income fa-
11 thers (but the project need not make services
12 available on a means-tested basis).

13 ‘(B) OVERSIGHT, EVALUATION, AND AD-
14 JUSTMENT COMPONENT.—An agreement that the
15 entity—

16 ‘(i) in consultation with the evaluator
17 selected pursuant to section 445, and as re-
18 quired by the Secretary, will modify the
19 project design, initially and (if necessary)
20 subsequently throughout the duration of the
21 project, in order to facilitate ongoing and
22 final oversight and evaluation of project op-
23 eration and outcomes (by means including,
24 to the maximum extent feasible, random as-
25 signment of clients to service recipient and

1 control groups), and to provide for mid-
2 course adjustments in project design indi-
3 cated by interim evaluations;

4 (ii) will submit to the Secretary re-
5 vised descriptions of the project design as
6 modified in accordance with clause (i); and

7 (iii) will cooperate fully with the Sec-
8 retary's ongoing oversight and ongoing and
9 final evaluation of the project, by means in-
10 cluding affording the Secretary access to the
11 project and to project-related records and
12 documents, staff, and clients.

13 (3) ADDRESSING CHILD ABUSE AND NEGLECT
14 AND DOMESTIC VIOLENCE.—A description of how the
15 entity will assess for the presence of, and intervene to
16 resolve, domestic violence and child abuse and neglect,
17 including how the entity will coordinate with State
18 and local child protective service and domestic vio-
19 lence programs.

20 (4) ADDRESSING CONCERNS RELATING TO SUB-
21 STANCE ABUSE AND SEXUAL ACTIVITY.—A commit-
22 ment to make available to each individual partici-
23 pating in the project education about alcohol, tobacco,
24 and other drugs, and about the health risks associated
25 with abusing such substances, and information about

1 *diseases and conditions transmitted through substance*
2 *abuse and sexual contact, including HIV/AIDS, and*
3 *to coordinate with providers of services addressing*
4 *such problems, as appropriate.*

5 *‘(5) COORDINATION WITH SPECIFIED PRO-*
6 *GRAMS.—An undertaking to coordinate, as appro-*
7 *priate, with State and local entities responsible for*
8 *the programs funded under parts A, B, and D of this*
9 *title, programs under title I of the Workforce Invest-*
10 *ment Act of 1998 (including the One-Stop delivery*
11 *system), and such other programs as the Secretary*
12 *may require.*

13 *‘(6) RECORDS, REPORTS, AND AUDITS.—An*
14 *agreement to maintain such records, make such re-*
15 *ports, and cooperate with such reviews or audits (in*
16 *addition to those required under the preceding provi-*
17 *sions of paragraph (2)) as the Secretary may find*
18 *necessary for purposes of oversight of project activities*
19 *and expenditures.*

20 *‘(d) FEDERAL SHARE.—*

21 *‘(1) IN GENERAL.—Grants for a project under*
22 *this section for a fiscal year shall be available for up*
23 *to 80 percent of the cost of such project in such fiscal*
24 *year.*

1 ‘(2) *NON-FEDERAL SHARE.*—*The non-Federal*
2 *share may be in cash or in kind. In determining the*
3 *amount of the non-Federal share, the Secretary may*
4 *attribute fair market value to goods, services, and fa-*
5 *cilities contributed from non-Federal sources.*

6 **‘SEC. 445. EVALUATION.**

7 ‘(a) *IN GENERAL.*—*The Secretary, directly or by con-*
8 *tract or cooperative agreement, shall evaluate the effective-*
9 *ness of service projects funded under sections 443 and 444*
10 *from the standpoint of the purposes specified in section*
11 *441(b)(1).*

12 ‘(b) *EVALUATION METHODOLOGY.*—*Evaluations under*
13 *this section shall—*

14 ‘(1) *include, to the maximum extent feasible,*
15 *random assignment of clients to service delivery and*
16 *control groups and other appropriate comparisons of*
17 *groups of individuals receiving and not receiving*
18 *services;*

19 ‘(2) *describe and measure the effectiveness of the*
20 *projects in achieving their specific project goals; and*

21 ‘(3) *describe and assess, as appropriate, the im-*
22 *act of such projects on marriage, parenting, domestic*
23 *violence, child abuse and neglect, money management,*
24 *employment and earnings, payment of child support,*
25 *and child well-being, health, and education.*

1 ‘(c) *EVALUATION REPORTS.*—*The Secretary shall pub-*
2 *lish the following reports on the results of the evaluation:*

3 ‘(1) *An implementation evaluation report cov-*
4 *ering the first 24 months of the activities under this*
5 *part to be completed by 36 months after initiation of*
6 *such activities.*

7 ‘(2) *A final report on the evaluation to be com-*
8 *pleted by September 30, 2013.*

9 **‘SEC. 446. PROJECTS OF NATIONAL SIGNIFICANCE.**

10 ‘*The Secretary is authorized, by grant, contract, or co-*
11 *operative agreement, to carry out projects and activities of*
12 *national significance relating to fatherhood promotion, in-*
13 *cluding—*

14 ‘(1) *COLLECTION AND DISSEMINATION OF INFOR-*
15 *MATION.*—*Assisting States, communities, and private*
16 *entities, including religious organizations, in efforts*
17 *to promote and support marriage and responsible fa-*
18 *therhood by collecting, evaluating, developing, and*
19 *making available (through the Internet and by other*
20 *means) to all interested parties information regarding*
21 *approaches to accomplishing the objectives specified in*
22 *section 441(b)(1).*

23 ‘(2) *MEDIA CAMPAIGN.*—*Developing, promoting,*
24 *and distributing to interested States, local govern-*
25 *ments, public agencies, and private nonprofit organi-*

1 zations, including charitable and religious organiza-
2 tions, a media campaign that promotes and encour-
3 ages involved, committed, and responsible fatherhood
4 and married fatherhood.

5 ‘(3) *TECHNICAL ASSISTANCE.*—Providing tech-
6 nical assistance, including consultation and training,
7 to public and private entities, including community
8 organizations and faith-based organizations, in the
9 implementation of local fatherhood promotion pro-
10 grams.

11 ‘(4) *RESEARCH.*—Conducting research related to
12 the purposes of this part.

13 ‘**SEC. 447. NONDISCRIMINATION.**

14 ‘*The projects and activities assisted under this part*
15 *shall be available on the same basis to all fathers and ex-*
16 *pectant fathers able to benefit from such projects and activi-*
17 *ties, including married and unmarried fathers and custo-*
18 *dial and noncustodial fathers, with particular attention to*
19 *low-income fathers, and to mothers and expectant mothers*
20 *on the same basis as to fathers.*

21 ‘**SEC. 448. AUTHORIZATION OF APPROPRIATIONS; RESERVA-**
22 **TION FOR CERTAIN PURPOSE.**

23 ‘(a) *AUTHORIZATION.*—There are authorized to be ap-
24 propriated \$20,000,000 for each of fiscal years 2006 through
25 2010 to carry out the provisions of this part.

1 ‘(b) *RESERVATION.*—Of the amount appropriated
 2 under this section for each fiscal year, not more than 15
 3 percent shall be available for the costs of the multicounty,
 4 multicounty, multistate demonstration projects under sec-
 5 tion 444, evaluations under section 445, and projects of na-
 6 tional significance under section 446.’.

7 “(b) *INAPPLICABILITY OF EFFECTIVE DATE PROVI-*
 8 *SIONS.*—Section 116 shall not apply to the amendment
 9 made by subsection (a) of this section.”.

10 (2) *CLERICAL AMENDMENT.*—Section 2 of such
 11 Act is amended in the table of contents by inserting
 12 after the item relating to section 116 the following
 13 new item:

“Sec. 117. *Fatherhood program.*”.

14 **SEC. 8120. STATE OPTION TO MAKE TANF PROGRAMS MAN-**
 15 **DATORY PARTNERS WITH ONE-STOP EMPLOY-**
 16 **MENT TRAINING CENTERS.**

17 Section 408 of the Social Security Act (42 U.S.C. 608)
 18 is amended by adding at the end the following:

19 “(h) *STATE OPTION TO MAKE TANF PROGRAMS MAN-*
 20 *DATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAIN-*
 21 *ING CENTERS.*—For purposes of section 121(b) of the Work-
 22 force Investment Act of 1998, a State program funded under
 23 part A of title IV of the Social Security Act shall be consid-
 24 ered a program referred to in paragraph (1)(B) of such sec-
 25 tion, unless, after the date of the enactment of this sub-

1 *section, the Governor of the State notifies the Secretaries*
 2 *of Health and Human Services and Labor in writing of*
 3 *the decision of the Governor not to make the State program*
 4 *a mandatory partner.”.*

5 **SEC. 8121. SENSE OF THE CONGRESS.**

6 *It is the sense of the Congress that a State welfare-*
 7 *to-work program should include a mentoring program.*

8 **SEC. 8122. DRUG TESTING OF APPLICANTS FOR AND RE-**
 9 **CIPIENTS OF ASSISTANCE.**

10 *(a) REQUIREMENT.—Section 408(a) (42 U.S.C.*
 11 *608(a)) is amended by adding at the end the following:*

12 *“(12) DRUG TESTING REQUIREMENTS.—A State*
 13 *to which a grant is made under section 403(a) for a*
 14 *fiscal year shall—*

15 *“(A) require an individual who has applied*
 16 *for, or is a recipient of, assistance from the State*
 17 *program funded under this part to undergo a*
 18 *physical test designed to detect the use by the in-*
 19 *dividual of any controlled substance (as defined*
 20 *in section 102(6) of the Controlled Substances*
 21 *Act) if the State has reason to believe that the*
 22 *person has unlawfully used such a substance re-*
 23 *cently;*

24 *“(B) if a test administered pursuant to this*
 25 *paragraph indicates that an individual has so*

1 *used such a substance recently, or if the State*
2 *otherwise determines (on the basis of such indi-*
3 *cators as the State may establish) that an indi-*
4 *vidual is likely to have so used such a substance*
5 *recently—*

6 “(i) *ensure that the self-sufficiency*
7 *plan developed under section 408(b) with*
8 *respect to the individual addresses the use of*
9 *the substance;*

10 “(ii) *suspend the provision of cash as-*
11 *sistance under the program to the family of*
12 *the individual until a subsequent such test*
13 *indicates that the individual has not been*
14 *using the substance; and*

15 “(iii) *require, as a condition of pro-*
16 *viding any benefit under the program to the*
17 *family of the individual, that the individual*
18 *comply with the self-sufficiency plan, in-*
19 *cluding the provisions of the plan that ad-*
20 *dress the use of the substance, and undergo*
21 *additional such tests every 30 or 60 days,*
22 *as the State deems appropriate; and*

23 “(C) *terminate for 3 years the participation*
24 *in the program of the family of any individual*
25 *who tests positive for such use of such a sub-*

1 *stance in such number of consecutive tests ad-*
 2 *ministered pursuant to this paragraph (which*
 3 *shall be not less than 3 and not more than 6) as*
 4 *the State deems appropriate.”.*

5 *(b) PENALTY FOR NONCOMPLIANCE.—Section 409(a)*
 6 *(42 U.S.C. 609(a)) is amended by adding at the end the*
 7 *following:*

8 *“(15) PENALTY FOR FAILURE TO COMPLY WITH*
 9 *DRUG TESTING REQUIREMENTS.—If the Secretary de-*
 10 *termines that a State has not complied with section*
 11 *408(a)(12) during a fiscal year, the Secretary shall*
 12 *reduce the grant payable to the State under section*
 13 *403(a)(1) for the immediately succeeding fiscal year*
 14 *by an amount equal to not less than 5 percent and*
 15 *not more than 10 percent of the State family assist-*
 16 *ance grant, as the Secretary deems appropriate based*
 17 *on the frequency and severity of the noncompliance.”.*

18 ***Subtitle B—Child Care***

19 ***SEC. 8201. ENTITLEMENT FUNDING.***

20 *Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—*

21 *(1) by striking “and” at the end of subpara-*
 22 *graph (E);*

23 *(2) by striking the period at the end of subpara-*
 24 *graph (F) and inserting a semicolon; and*

25 *(3) by adding at the end the following:*

1 “(G) \$2,717,000,000 for fiscal year 2006;

2 “(H) \$2,767,000,000 for fiscal year 2007;

3 “(I) \$2,817,000,000 for fiscal year 2008;

4 “(J) \$2,867,000,000 for fiscal year 2009;

5 and

6 “(K) \$2,917,000,000 for fiscal year 2010.”.

7 ***Subtitle C—Child Support***

8 ***SEC. 8301. FEDERAL MATCHING FUNDS FOR LIMITED PASS***

9 ***THROUGH OF CHILD SUPPORT PAYMENTS TO***

10 ***FAMILIES RECEIVING TANF.***

11 *(a) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a))*

12 *is amended—*

13 *(1) in paragraph (1)(A), by inserting “subject to*
14 *paragraph (7)” before the semicolon; and*

15 *(2) by adding at the end the following:*

16 *“(7) FEDERAL MATCHING FUNDS FOR LIMITED*

17 *PASS THROUGH OF CHILD SUPPORT PAYMENTS TO*

18 *FAMILIES RECEIVING TANF.—Notwithstanding para-*

19 *graph (1), a State shall not be required to pay to the*

20 *Federal Government the Federal share of an amount*

21 *collected during a month on behalf of a family that*

22 *is a recipient of assistance under the State program*

23 *funded under part A, to the extent that—*

24 *“(A) the State distributes the amount to the*

25 *family;*

1 “(B) the total of the amounts so distributed
2 to the family during the month—

3 “(i) exceeds the amount (if any) that,
4 as of December 31, 2001, was required
5 under State law to be distributed to a fam-
6 ily under paragraph (1)(B); and

7 “(ii) does not exceed the greater of—

8 “(I) \$100; or

9 “(II) \$50 plus the amount de-
10 scribed in clause (i); and

11 “(C) the amount is disregarded in deter-
12 mining the amount and type of assistance pro-
13 vided to the family under the State program
14 funded under part A.”.

15 (b) *APPLICABILITY.*—The amendments made by sub-
16 section (a) shall apply to amounts distributed on or after
17 October 1, 2008.

18 **SEC. 8302. STATE OPTION TO PASS THROUGH ALL CHILD**
19 **SUPPORT PAYMENTS TO FAMILIES THAT FOR-**
20 **MERLY RECEIVED TANF.**

21 (a) *IN GENERAL.*—Section 457(a) (42 U.S.C. 657(a)),
22 as amended by section 8301(a) of this Act, is amended—

23 (1) in paragraph (2)(B), in the matter preceding
24 clause (i), by inserting “, except as provided in para-
25 graph (8),” after “shall”; and

1 (2) by adding at the end the following:

2 “(8) *STATE OPTION TO PASS THROUGH ALL*
3 *CHILD SUPPORT PAYMENTS TO FAMILIES THAT FOR-*
4 *MERLY RECEIVED TANF.—In lieu of applying para-*
5 *graph (2) to any family described in paragraph (2),*
6 *a State may distribute to the family any amount col-*
7 *lected during a month on behalf of the family.”.*

8 (b) *APPLICABILITY.—The amendments made by sub-*
9 *section (a) shall apply to amounts distributed on or after*
10 *October 1, 2008.*

11 **SEC. 8303. MANDATORY REVIEW AND ADJUSTMENT OF**
12 **CHILD SUPPORT ORDERS FOR FAMILIES RE-**
13 **CEIVING TANF.**

14 (a) *IN GENERAL.—Section 466(a)(10)(A)(i) (42*
15 *U.S.C. 666(a)(10)(A)(i)) is amended—*

16 (1) by striking “parent, or,” and inserting “par-

17 ent or”; and

18 (2) by striking “upon the request of the State

19 agency under the State plan or of either parent,”.

20 (b) *EFFECTIVE DATE.—The amendments made by sub-*
21 *section (a) shall take effect on October 1, 2007.*

1 **SEC. 8304. MANDATORY FEE FOR SUCCESSFUL CHILD SUP-**
2 **PORT COLLECTION FOR FAMILY THAT HAS**
3 **NEVER RECEIVED TANF.**

4 (a) *IN GENERAL.*—Section 454(6)(B) (42 U.S.C.
5 654(6)(B)) is amended—

6 (1) by inserting “(i)” after “(B)”;

7 (2) by redesignating clauses (i) and (ii) as sub-
8 clauses (I) and (II), respectively;

9 (3) by adding “and” after the semicolon; and

10 (4) by adding after and below the end the fol-
11 lowing new clause:

12 “(ii) in the case of an individual who has
13 never received assistance under a State program
14 funded under part A and for whom the State has
15 collected at least \$500 of support, the State shall
16 impose an annual fee of \$25 for each case in
17 which services are furnished, which shall be re-
18 tained by the State from support collected on be-
19 half of the individual (but not from the 1st \$500
20 so collected), paid by the individual applying for
21 the services, recovered from the absent parent, or
22 paid by the State out of its own funds (the pay-
23 ment of which from State funds shall not be con-
24 sidered as an administrative cost of the State for
25 the operation of the plan, and such fees shall be
26 considered income to the program);”.

1 (b) *CONFORMING AMENDMENT.*—Section 457(a)(3) (42
2 *U.S.C. 657(a)(3)*) is amended to read as follows:

3 “(3) *FAMILIES THAT NEVER RECEIVED ASSIST-*
4 *ANCE.*—In the case of any other family, the State
5 shall distribute to the family the portion of the
6 amount so collected that remains after withholding
7 any fee pursuant to section 454(6)(B)(ii).”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
9 section shall take effect on October 1, 2006.

10 **SEC. 8305. REPORT ON UNDISTRIBUTED CHILD SUPPORT**
11 **PAYMENTS.**

12 Not later than 6 months after the date of the enactment
13 of this Act, the Secretary of Health and Human Services
14 shall submit to the Committee on Ways and Means of the
15 House of Representatives and the Committee on Finance
16 of the Senate a report on the procedures that the States use
17 generally to locate custodial parents for whom child support
18 has been collected but not yet distributed. The report shall
19 include an estimate of the total amount of undistributed
20 child support and the average length of time it takes undis-
21 tributed child support to be distributed. To the extent the
22 Secretary deems appropriate, the Secretary shall include in
23 the report recommendations as to whether additional proce-
24 dures should be established at the State or Federal level to
25 expedite the payment of undistributed child support.

1 **SEC. 8306. DECREASE IN AMOUNT OF CHILD SUPPORT AR-**
2 **REARAGE TRIGGERING PASSPORT DENIAL.**

3 (a) *IN GENERAL.*—Section 452(k)(1) (42 U.S.C.
4 652(k)(1)) is amended by striking “\$5,000” and inserting
5 “\$2,500”.

6 (b) *CONFORMING AMENDMENT.*—Section 454(31) (42
7 U.S.C. 654(31)) is amended by striking “\$5,000” and in-
8 serting “\$2,500”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall take effect on October 1, 2006.

11 **SEC. 8307. USE OF TAX REFUND INTERCEPT PROGRAM TO**
12 **COLLECT PAST-DUE CHILD SUPPORT ON BE-**
13 **HALF OF CHILDREN WHO ARE NOT MINORS.**

14 (a) *IN GENERAL.*—Section 464 (42 U.S.C. 664) is
15 amended—

16 (1) in subsection (a)(2)(A), by striking “(as that
17 term is defined for purposes of this paragraph under
18 subsection (c))”; and

19 (2) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) by striking “(1) Except as provided
22 in paragraph (2), as used in” and inserting
23 “In”; and

24 (ii) by inserting “(whether or not a
25 minor)” after “a child” each place it ap-
26 pears; and

1 (B) by striking paragraphs (2) and (3).

2 (b) *EFFECTIVE DATE.*—The amendments made by sub-
3 section (a) shall take effect on October 1, 2007.

4 **SEC. 8308. GARNISHMENT OF COMPENSATION PAID TO VET-**
5 **ERANS FOR SERVICE-CONNECTED DISABIL-**
6 **ITIES IN ORDER TO ENFORCE CHILD SUP-**
7 **PORT OBLIGATIONS.**

8 (a) *IN GENERAL.*—Section 459(h) (42 U.S.C. 659(h))
9 is amended—

10 (1) in paragraph (1)(A)(ii)(V), by striking all
11 that follows “Armed Forces” and inserting a semi-
12 colon; and

13 (2) by adding at the end the following:

14 “(3) *LIMITATIONS WITH RESPECT TO COMPENSA-*
15 *TION PAID TO VETERANS FOR SERVICE-CONNECTED*
16 *DISABILITIES.*—Notwithstanding any other provision
17 of this section:

18 “(A) Compensation described in paragraph
19 (1)(A)(ii)(V) shall not be subject to withholding
20 pursuant to this section—

21 “(i) for payment of alimony; or

22 “(ii) for payment of child support if
23 the individual is fewer than 60 days in ar-
24 rears in payment of the support.

1 “(B) Not more than 50 percent of any pay-
 2 ment of compensation described in paragraph
 3 (1)(A)(ii)(V) may be withheld pursuant to this
 4 section.”.

5 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 6 section (a) shall take effect on October 1, 2007.

7 **SEC. 8309. MAINTENANCE OF TECHNICAL ASSISTANCE**
 8 **FUNDING.**

9 Section 452(j) (42 U.S.C. 652(j)) is amended by insert-
 10 ing “or the amount appropriated under this paragraph for
 11 fiscal year 2002, whichever is greater,” before “which shall
 12 be available”.

13 **SEC. 8310. MAINTENANCE OF FEDERAL PARENT LOCATOR**
 14 **SERVICE FUNDING.**

15 Section 453(o) (42 U.S.C. 653(o)) is amended—

16 (1) in the 1st sentence, by inserting “or the
 17 amount appropriated under this paragraph for fiscal
 18 year 2002, whichever is greater,” before “which shall
 19 be available”; and

20 (2) in the 2nd sentence, by striking “for each of
 21 fiscal years 1997 through 2001”.

22 **SEC. 8311. INFORMATION COMPARISONS WITH INSURANCE**
 23 **DATA.**

24 (a) *DUTIES OF THE SECRETARY.*—Section 452 (42
 25 U.S.C. 652) is amended by adding at the end the following:

1 “(m) *COMPARISONS WITH INSURANCE INFORMA-*
2 *TION.—*

3 “(1) *IN GENERAL.—The Secretary, through the*
4 *Federal Parent Locator Service, may—*

5 “(A) *compare information concerning indi-*
6 *viduals owing past-due support with informa-*
7 *tion maintained by insurers (or their agents)*
8 *concerning insurance claims, settlements,*
9 *awards, and payments, and*

10 “(B) *furnish information resulting from*
11 *such a comparison to the State agencies respon-*
12 *sible for collecting child support from such indi-*
13 *viduals.*

14 “(2) *LIABILITY.—An insurer (including any*
15 *agent of an insurer) shall not be liable under any*
16 *Federal or State law to any person for any disclosure*
17 *provided for under this subsection, or for any other*
18 *action taken in good faith in accordance with this*
19 *subsection.”.*

20 (b) *STATE REIMBURSEMENT OF FEDERAL COSTS.—*

21 *Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by in-*
22 *serting “or section 452(m)” after “this section”.*

1 **SEC. 8312. TRIBAL ACCESS TO THE FEDERAL PARENT LOCA-**
2 **TOR SERVICE.**

3 *Section 453(c)(1) (42 U.S.C. 653(c)(1)) is amended by*
4 *inserting “or of any Indian tribe or tribal organization”*
5 *after “any agent or attorney of any State”.*

6 **SEC. 8313. REIMBURSEMENT OF SECRETARY’S COSTS OF IN-**
7 **FORMATION COMPARISONS AND DISCLOSURE**
8 **FOR ENFORCEMENT OF OBLIGATIONS ON**
9 **HIGHER EDUCATION ACT LOANS AND**
10 **GRANTS.**

11 *Section 453(j)(6)(F) (42 U.S.C. 653(j)(6)(F)) is*
12 *amended by striking “additional”.*

13 **SEC. 8314. TECHNICAL AMENDMENT RELATING TO COOPER-**
14 **ATIVE AGREEMENTS BETWEEN STATES AND**
15 **INDIAN TRIBES.**

16 *Section 454(33) (42 U.S.C. 654(33)) is amended by*
17 *striking “that receives funding pursuant to section 428*
18 *and”.*

19 **SEC. 8315. STATE OPTION TO USE STATEWIDE AUTOMATED**
20 **DATA PROCESSING AND INFORMATION RE-**
21 **TRIEVAL SYSTEM FOR INTERSTATE CASES.**

22 *Section 466(a)(14)(A)(iii) (42 U.S.C.*
23 *666(a)(14)(A)(iii)) is amended by inserting “(but the as-*
24 *sisting State may establish a corresponding case based on*
25 *such other State’s request for assistance)” before the semi-*
26 *colon.*

1 **SEC. 8316. MODIFICATION OF RULE REQUIRING ASSIGN-**
2 **MENT OF SUPPORT RIGHTS AS A CONDITION**
3 **OF RECEIVING TANF.**

4 (a) *IN GENERAL.*—Section 408(a)(3) (42 U.S.C.
5 608(a)(3)) is amended to read as follows:

6 “(3) *NO ASSISTANCE FOR FAMILIES NOT ASSIGN-*
7 *ING CERTAIN SUPPORT RIGHTS TO THE STATE.*—

8 “(A) *IN GENERAL.*—Subject to subpara-
9 graph (B), a State to which a grant is made
10 under section 403 shall require, as a condition of
11 providing assistance to a family under the State
12 program funded under this part, that a member
13 of the family assign to the State any rights the
14 family member may have (on behalf of the fam-
15 ily member or of any other person for whom the
16 family member has applied for or is receiving
17 such assistance) to—

18 “(i) support from any other person
19 which accrues during the period that the
20 family receives assistance under the pro-
21 gram; and

22 “(ii) at the option of the State, support
23 from any other person which has accrued
24 before such period.

25 “(B) *LIMITATION.*—The total amount of
26 support that may be required to be provided

1 *with respect to rights assigned to a State by a*
 2 *family member pursuant to subparagraph (A)*
 3 *shall not exceed the total amount of assistance*
 4 *provided by the State to the family.”.*

5 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
 6 *section (a) shall take effect on October 1, 2008.*

7 **SEC. 8317. STATE OPTION TO DISCONTINUE CERTAIN SUP-**
 8 **PORT ASSIGNMENTS.**

9 *Section 457(b) (42 U.S.C. 657(b)) is amended by strik-*
 10 *ing “shall” and inserting “may”.*

11 **SEC. 8318. TECHNICAL CORRECTION.**

12 *The second paragraph (7) of section 453(j) (42 U.S.C.*
 13 *653(j)) is amended by striking “(7)” and inserting “(9)”.*

14 **SEC. 8319. REDUCTION IN RATE OF REIMBURSEMENT OF**
 15 **CHILD SUPPORT ADMINISTRATIVE EX-**
 16 **PENSES.**

17 *Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended—*

18 *(1) in subparagraph (B), by striking “, and”*
 19 *and inserting a semicolon;*

20 *(2) in subparagraph (C), by striking “fiscal year*
 21 *1990 and each fiscal year thereafter.” and inserting*
 22 *“fiscal years 1990 through 2006;”; and*

23 *(3) by adding at the end the following:*

24 *“(D) 62 percent for fiscal year 2007;*

25 *“(E) 58 percent for fiscal year 2008;*

1 “(F) 54 percent for fiscal year 2009; and
 2 “(G) 50 percent for fiscal year 2010 and each
 3 fiscal year thereafter.”.

4 **SEC. 8320. INCENTIVE PAYMENTS.**

5 (a) *IN GENERAL.*—Section 455(a)(1) (42 U.S.C.
 6 655(a)(1)) is amended by inserting “from amounts paid to
 7 the State under section 458 or” before “to carry out an
 8 agreement”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 10 section (a) shall take effect on October 1, 2007.

11 **Subtitle D—Child Welfare**

12 **SEC. 8401. EXTENSION OF AUTHORITY TO APPROVE DEM-**
 13 **ONSTRATION PROJECTS.**

14 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is
 15 amended by striking “2003” and inserting “2010”.

16 **SEC. 8402. ELIMINATION OF LIMITATION ON NUMBER OF**
 17 **WAIVERS.**

18 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is
 19 amended by striking “not more than 10”.

20 **SEC. 8403. ELIMINATION OF LIMITATION ON NUMBER OF**
 21 **STATES THAT MAY BE GRANTED WAIVERS TO**
 22 **CONDUCT DEMONSTRATION PROJECTS ON**
 23 **SAME TOPIC.**

24 Section 1130 (42 U.S.C. 1320a–9) is amended by add-
 25 ing at the end the following:

1 “(h) *NO LIMIT ON NUMBER OF STATES THAT MAY BE*
 2 *GRANTED WAIVERS TO CONDUCT SAME OR SIMILAR DEM-*
 3 *ONSTRATION PROJECTS.—The Secretary shall not refuse to*
 4 *grant a waiver to a State under this section on the grounds*
 5 *that a purpose of the waiver or of the demonstration project*
 6 *for which the waiver is necessary would be the same as or*
 7 *similar to a purpose of another waiver or project that is*
 8 *or may be conducted under this section.”.*

9 **SEC. 8404. ELIMINATION OF LIMITATION ON NUMBER OF**
 10 **WAIVERS THAT MAY BE GRANTED TO A SIN-**
 11 **GLE STATE FOR DEMONSTRATION PROJECTS.**

12 *Section 1130 (42 U.S.C. 1320a–9) is further amended*
 13 *by adding at the end the following:*

14 “(i) *NO LIMIT ON NUMBER OF WAIVERS GRANTED TO,*
 15 *OR DEMONSTRATION PROJECTS THAT MAY BE CONDUCTED*
 16 *BY, A SINGLE STATE.—The Secretary shall not impose any*
 17 *limit on the number of waivers that may be granted to a*
 18 *State, or the number of demonstration projects that a State*
 19 *may be authorized to conduct, under this section.”.*

20 **SEC. 8405. STREAMLINED PROCESS FOR CONSIDERATION**
 21 **OF AMENDMENTS TO AND EXTENSIONS OF**
 22 **DEMONSTRATION PROJECTS REQUIRING**
 23 **WAIVERS.**

24 *Section 1130 (42 U.S.C. 1320a–9) is further amended*
 25 *by adding at the end the following:*

1 “(j) *STREAMLINED PROCESS FOR CONSIDERATION OF*
2 *AMENDMENTS AND EXTENSIONS.*—*The Secretary shall de-*
3 *velop a streamlined process for consideration of amend-*
4 *ments and extensions proposed by States to demonstration*
5 *projects conducted under this section.*”.

6 **SEC. 8406. AVAILABILITY OF REPORTS.**

7 *Section 1130 (42 U.S.C. 1320a–9) is further amended*
8 *by adding at the end the following:*

9 “(k) *AVAILABILITY OF REPORTS.*—*The Secretary shall*
10 *make available to any State or other interested party any*
11 *report provided to the Secretary under subsection (f)(2),*
12 *and any evaluation or report made by the Secretary with*
13 *respect to a demonstration project conducted under this sec-*
14 *tion, with a focus on information that may promote best*
15 *practices and program improvements.*”.

16 **SEC. 8407. CLARIFICATION OF ELIGIBILITY FOR FOSTER**
17 **CARE MAINTENANCE PAYMENTS AND ADOPTI-**
18 **ON ASSISTANCE.**

19 “(a) *FOSTER CARE MAINTENANCE PAYMENTS.*—*Section*
20 *472(a) (42 U.S.C. 672(a)) is amended to read as follows:*

21 “(a) *IN GENERAL.*—

22 “(1) *ELIGIBILITY.*—*Each State with a plan ap-*
23 *proved under this part shall make foster care mainte-*
24 *nance payments on behalf of each child who has been*
25 *removed from the home of a relative specified in sec-*

1 *tion 406(a) (as in effect on July 16, 1996) into foster*
2 *care if—*

3 *“(A) the removal and foster care placement*
4 *met, and the placement continues to meet, the re-*
5 *quirements of paragraph (2); and*

6 *“(B) the child, while in the home, would*
7 *have met the AFDC eligibility requirement of*
8 *paragraph (3).*

9 *“(2) REMOVAL AND FOSTER CARE PLACEMENT*
10 *REQUIREMENTS.—The removal and foster care place-*
11 *ment of a child meet the requirements of this para-*
12 *graph if—*

13 *“(A) the removal and foster care placement*
14 *are in accordance with—*

15 *“(i) a voluntary placement agreement*
16 *entered into by a parent or legal guardian*
17 *of the child who is the relative referred to in*
18 *paragraph (1); or*

19 *“(ii) a judicial determination to the ef-*
20 *fect that continuation in the home from*
21 *which removed would be contrary to the*
22 *welfare of the child and that reasonable ef-*
23 *forts of the type described in section*
24 *471(a)(15) for a child have been made;*

1 “(B) *the child’s placement and care are the*
2 *responsibility of—*

3 “(i) *the State agency administering the*
4 *State plan approved under section 471; or*

5 “(ii) *any other public agency with*
6 *which the State agency administering or su-*
7 *pervising the administration of the State*
8 *plan has made an agreement which is in ef-*
9 *fect; and*

10 “(C) *the child has been placed in a foster*
11 *family home or child-care institution.*

12 “(3) *AFDC ELIGIBILITY REQUIREMENT.—*

13 “(A) *IN GENERAL.—A child in the home re-*
14 *ferred to in paragraph (1) would have met the*
15 *AFDC eligibility requirement of this paragraph*
16 *if the child—*

17 “(i) *would have received aid under the*
18 *State plan approved under section 402 (as*
19 *in effect on July 16, 1996) in the home, in*
20 *or for the month in which the agreement*
21 *was entered into or court proceedings lead-*
22 *ing to the determination referred to in*
23 *paragraph (2)(A)(ii) of this subsection were*
24 *initiated; or*

1 “(i)(I) would have received the aid in
2 the home, in or for the month referred to in
3 clause (i), if application had been made
4 therefor; or

5 “(II) had been living in the home with-
6 in 6 months before the month in which the
7 agreement was entered into or the pro-
8 ceedings were initiated, and would have re-
9 ceived the aid in or for such month, if, in
10 such month, the child had been living in the
11 home with the relative referred to in para-
12 graph (1) and application for the aid had
13 been made.

14 “(B) *RESOURCES DETERMINATION.*—For
15 purposes of subparagraph (A), in determining
16 whether a child would have received aid under a
17 State plan approved under section 402 (as in ef-
18 fect on July 16, 1996), a child whose resources
19 (determined pursuant to section 402(a)(7)(B), as
20 so in effect) have a combined value of not more
21 than \$10,000 shall be considered a child whose
22 resources have a combined value of not more
23 than \$1,000 (or such lower amount as the State
24 may determine for purposes of section
25 402(a)(7)(B)).

1 “(4) *ELIGIBILITY OF CERTAIN ALIEN CHIL-*
2 *DREN.—Subject to title IV of the Personal Responsi-*
3 *bility and Work Opportunity Reconciliation Act of*
4 *1996, if the child is an alien disqualified under sec-*
5 *tion 245A(h) or 210(f) of the Immigration and Na-*
6 *tionality Act from receiving aid under the State plan*
7 *approved under section 402 in or for the month in*
8 *which the agreement described in paragraph (2)(A)(i)*
9 *was entered into or court proceedings leading to the*
10 *determination described in paragraph (2)(A)(ii) were*
11 *initiated, the child shall be considered to satisfy the*
12 *requirements of paragraph (3), with respect to the*
13 *month, if the child would have satisfied the require-*
14 *ments but for the disqualification.”.*

15 (b) *ADOPTION ASSISTANCE.—Section 473(a)(2) (42*
16 *U.S.C. 673(a)(2)) is amended to read as follows:*

17 “(2)(A) *For purposes of paragraph (1)(B)(ii), a child*
18 *meets the requirements of this paragraph if the child—*

19 “(i)(I)(aa) *was removed from the home of a rel-*
20 *ative specified in section 406(a) (as in effect on July*
21 *16, 1996) and placed in foster care in accordance*
22 *with a voluntary placement agreement with respect to*
23 *which Federal payments are provided under section*
24 *474 (or section 403, as such section was in effect on*
25 *July 16, 1996), or in accordance with a judicial de-*

1 *termination to the effect that continuation in the*
2 *home would be contrary to the welfare of the child;*
3 *and*

4 *“(bb) met the requirements of section 472(a)(3)*
5 *with respect to the home referred to in item (aa) of*
6 *this subclause;*

7 *“(II) meets all of the requirements of title XVI*
8 *with respect to eligibility for supplemental security*
9 *income benefits; or*

10 *“(III) is a child whose costs in a foster family*
11 *home or child-care institution are covered by the fos-*
12 *ter care maintenance payments being made with re-*
13 *spect to the minor parent of the child as provided in*
14 *section 475(4)(B); and*

15 *“(ii) has been determined by the State, pursuant*
16 *to subsection (c) of this section, to be a child with spe-*
17 *cial needs.*

18 *“(B) Section 472(a)(4) shall apply for purposes of sub-*
19 *paragraph (A) of this paragraph, in any case in which the*
20 *child is an alien described in such section.*

21 *“(C) A child shall be treated as meeting the require-*
22 *ments of this paragraph for the purpose of paragraph*
23 *(1)(B)(ii) if the child—*

24 *“(i) meets the requirements of subparagraph*
25 *(A)(ii);*

1 “(ii) was determined eligible for adoption assist-
2 ance payments under this part with respect to a prior
3 adoption;

4 “(iii) is available for adoption because—

5 “(I) the prior adoption has been dissolved,
6 and the parental rights of the adoptive parents
7 have been terminated; or

8 “(II) the child’s adoptive parents have died;
9 and

10 “(iv) fails to meet the requirements of subpara-
11 graph (A) but would meet such requirements if—

12 “(I) the child were treated as if the child
13 were in the same financial and other cir-
14 cumstances the child was in the last time the
15 child was determined eligible for adoption assist-
16 ance payments under this part; and

17 “(II) the prior adoption were treated as
18 never having occurred.”.

19 **SEC. 8408. CLARIFICATION REGARDING FEDERAL MATCH-**
20 **ING OF CERTAIN ADMINISTRATIVE COSTS**
21 **UNDER THE FOSTER CARE MAINTENANCE**
22 **PAYMENTS PROGRAM.**

23 (a) *ADMINISTRATIVE COSTS RELATING TO UNLI-*
24 *CENSED CARE.*—Section 472 (42 U.S.C. 672) is amended
25 *by inserting after subsection (h) the following:*

1 “(i) *ADMINISTRATIVE COSTS ASSOCIATED WITH OTH-*
2 *ERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER*
3 *CARE SETTINGS.*—*Expenditures by a State that would be*
4 *considered administrative expenditures for purposes of sec-*
5 *tion 474(a)(3) if made with respect to a child who was re-*
6 *siding in a foster family home or child-care institution shall*
7 *be so considered with respect to a child not residing in such*
8 *a home or institution—*

9 “(1) *in the case of a child who has been removed*
10 *in accordance with subsection (a) of this section from*
11 *the home of a relative specified in section 406(a) (as*
12 *in effect on July 16, 1996), only for expenditures—*

13 “(A) *with respect to a period of not more*
14 *than the lesser of 12 months or the average*
15 *length of time it takes for the State to license or*
16 *approve a home as a foster home, in which the*
17 *child is in the home of a relative and an appli-*
18 *cation is pending for licensing or approval of the*
19 *home as a foster family home; or*

20 “(B) *with respect to a period of not more*
21 *than 1 calendar month when a child moves from*
22 *a facility not eligible for payments under this*
23 *part into a foster family home or child care in-*
24 *stitution licensed or approved by the State; and*

1 “(2) in the case of any other child who is poten-
2 tially eligible for benefits under a State plan ap-
3 proved under this part and at imminent risk of re-
4 moval from the home, only if—

5 “(A) reasonable efforts are being made in
6 accordance with section 471(a)(15) to prevent the
7 need for, or if necessary to pursue, removal of the
8 child from the home; and

9 “(B) the State agency has made, not less
10 often than every 6 months, a determination (or
11 redetermination) as to whether the child remains
12 at imminent risk of removal from the home.”.

13 (b) *CONFORMING AMENDMENT.*—Section 474(a)(3) of
14 such Act (42 U.S.C. 674(a)(3)) is amended by inserting
15 “subject to section 472(i)” before “an amount equal to”.

16 **SEC. 8409. TECHNICAL CORRECTION.**

17 Section 1130(b)(1) (42 U.S.C. 1320a–9(b)(1)) is
18 amended by striking “422(b)(9)” and inserting
19 “422(b)(10)”.

20 **SEC. 8410. TECHNICAL CORRECTION.**

21 Section 470 (42 U.S.C. 670) is amended by striking
22 “June 1, 1995” and inserting “July 16, 1996”.

1 **Subtitle E—Supplemental Security**
2 **Income**

3 **SEC. 8501. REVIEW OF STATE AGENCY BLINDNESS AND DIS-**
4 **ABILITY DETERMINATIONS.**

5 *Section 1633 (42 U.S.C. 1383b) is amended by adding*
6 *at the end the following:*

7 “(e)(1) *The Commissioner of Social Security shall re-*
8 *view determinations, made by State agencies pursuant to*
9 *subsection (a) in connection with applications for benefits*
10 *under this title on the basis of blindness or disability, that*
11 *individuals who have attained 18 years of age are blind*
12 *or disabled as of a specified onset date. The Commissioner*
13 *of Social Security shall review such a determination before*
14 *any action is taken to implement the determination.*

15 “(2)(A) *In carrying out paragraph (1), the Commis-*
16 *sioner of Social Security shall review—*

17 “(i) *at least 20 percent of all determinations re-*
18 *ferred to in paragraph (1) that are made in fiscal*
19 *year 2006;*

20 “(ii) *at least 40 percent of all such determina-*
21 *tions that are made in fiscal year 2007; and*

22 “(iii) *at least 50 percent of all such determina-*
23 *tions that are made in fiscal year 2008 or thereafter.*

24 “(B) *In carrying out subparagraph (A), the Commis-*
25 *sioner of Social Security shall, to the extent feasible, select*

1 *for review the determinations which the Commissioner of*
 2 *Social Security identifies as being the most likely to be in-*
 3 *correct.”.*

4 **SEC. 8502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN**
 5 **INSTALLMENTS UNDER THE SUPPLEMENTAL**
 6 **SECURITY INCOME PROGRAM.**

7 (a) *IN GENERAL.*—Section 1631(a)(10)(A)(i) (42
 8 U.S.C. 1383(a)(10)(A)(i)) is amended by striking “12” and
 9 inserting “3”.

10 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 11 section (a) shall take effect 3 months after the date of the
 12 enactment of this Act.

13 **Subtitle F—State and Local**
 14 **Flexibility**

15 **SEC. 8601. PROGRAM COORDINATION DEMONSTRATION**
 16 **PROJECTS.**

17 (a) *PURPOSE.*—The purpose of this section is to estab-
 18 lish a program of demonstration projects in a State or por-
 19 tion of a State to coordinate multiple public assistance,
 20 workforce development, and other programs, for the purpose
 21 of supporting working individuals and families, helping
 22 families escape welfare dependency, promoting child well-
 23 being, or helping build stronger families, using innovative
 24 approaches to strengthen service systems and provide more
 25 coordinated and effective service delivery.

1 **(b) DEFINITIONS.**—*In this section:*

2 **(1) ADMINISTERING SECRETARY.**—*The term “ad-*
3 *ministering Secretary” means, with respect to a*
4 *qualified program, the head of the Federal agency re-*
5 *sponsible for administering the program.*

6 **(2) QUALIFIED PROGRAM.**—*The term “qualified*
7 *program” means—*

8 **(A)** *a program under part A of title IV of*
9 *the Social Security Act; or*

10 **(B)** *the program under title XX of such Act.*

11 **(c) APPLICATION REQUIREMENTS.**—*The head of a*
12 *State entity or of a sub-State entity administering 2 or*
13 *more qualified programs proposed to be included in a dem-*
14 *onstration project under this section shall (or, if the project*
15 *is proposed to include qualified programs administered by*
16 *2 or more such entities, the heads of the administering enti-*
17 *ties (each of whom shall be considered an applicant for pur-*
18 *poses of this section) shall jointly) submit to the admin-*
19 *istering Secretary of each such program an application that*
20 *contains the following:*

21 **(1) PROGRAMS INCLUDED.**—*A statement identi-*
22 *fying each qualified program to be included in the*
23 *project, and describing how the purposes of each such*
24 *program will be achieved by the project.*

1 (2) *POPULATION SERVED.*—A statement identi-
2 fying the population to be served by the project and
3 specifying the eligibility criteria to be used.

4 (3) *DESCRIPTION AND JUSTIFICATION.*—A de-
5 tailed description of the project, including—

6 (A) a description of how the project is ex-
7 pected to improve or enhance achievement of the
8 purposes of the programs to be included in the
9 project, from the standpoint of quality, of cost-
10 effectiveness, or of both; and

11 (B) a description of the performance objec-
12 tives for the project, including any proposed
13 modifications to the performance measures and
14 reporting requirements used in the programs.

15 (4) *WAIVERS REQUESTED.*—A description of the
16 statutory and regulatory requirements with respect to
17 which a waiver is requested in order to carry out the
18 project, and a justification of the need for each such
19 waiver.

20 (5) *COST NEUTRALITY.*—Such information and
21 assurances as necessary to establish to the satisfaction
22 of the administering Secretary, in consultation with
23 the Director of the Office of Management and Budget,
24 that the proposed project is reasonably expected to

1 *meet the applicable cost neutrality requirements of*
2 *subsection (d)(4).*

3 (6) *EVALUATION AND REPORTS.*—*An assurance*
4 *that the applicant will conduct ongoing and final*
5 *evaluations of the project, and make interim and*
6 *final reports to the administering Secretary, at such*
7 *times and in such manner as the administering Sec-*
8 *retary may require.*

9 (7) *OTHER INFORMATION AND ASSURANCES.*—
10 *Such other information and assurances as the admin-*
11 *istering Secretary may require.*

12 (d) *APPROVAL OF APPLICATIONS.*—

13 (1) *IN GENERAL.*—*The administering Secretary*
14 *with respect to a qualified program that is identified*
15 *in an application submitted pursuant to subsection*
16 *(c) may approve the application and, except as pro-*
17 *vided in paragraph (2), waive any requirement ap-*
18 *plicable to the program, to the extent consistent with*
19 *this section and necessary and appropriate for the*
20 *conduct of the demonstration project proposed in the*
21 *application, if the administering Secretary deter-*
22 *mines that the project—*

23 (A) *has a reasonable likelihood of achieving*
24 *the objectives of the programs to be included in*
25 *the project;*

1 (B) may reasonably be expected to meet the
2 applicable cost neutrality requirements of para-
3 graph (4), as determined by the Director of the
4 Office of Management and Budget; and

5 (C) includes the coordination of 2 or more
6 qualified programs.

7 (2) *PROVISIONS EXCLUDED FROM WAIVER AU-*
8 *THORITY.*—A waiver shall not be granted under para-
9 graph (1) with respect to any provision of law relat-
10 ing to—

11 (A) civil rights or prohibition of discrimi-
12 nation;

13 (B) purposes or goals of any program;

14 (C) maintenance of effort requirements;

15 (D) health or safety;

16 (E) labor standards under the Fair Labor
17 Standards Act of 1938; or

18 (F) environmental protection;

19 (3) *AGREEMENT OF EACH ADMINISTERING SEC-*
20 *RETARY REQUIRED.*—

21 (A) *IN GENERAL.*—An applicant may not
22 conduct a demonstration project under this sec-
23 tion unless each administering Secretary with
24 respect to any program proposed to be included

1 *in the project has approved the application to*
2 *conduct the project.*

3 *(B) AGREEMENT WITH RESPECT TO FUND-*
4 *ING AND IMPLEMENTATION.—Before approving*
5 *an application to conduct a demonstration*
6 *project under this section, an administering Sec-*
7 *retary shall have in place an agreement with the*
8 *applicant with respect to the payment of funds*
9 *and responsibilities required of the admin-*
10 *istering Secretary with respect to the project.*

11 *(4) COST-NEUTRALITY REQUIREMENT.—*

12 *(A) GENERAL RULE.—Notwithstanding any*
13 *other provision of law (except subparagraph*
14 *(B)), the total of the amounts that may be paid*
15 *by the Federal Government for a fiscal year with*
16 *respect to the programs in the State in which an*
17 *entity conducting a demonstration project under*
18 *this section is located that are affected by the*
19 *project shall not exceed the estimated total*
20 *amount that the Federal Government would have*
21 *paid for the fiscal year with respect to the pro-*
22 *grams if the project had not been conducted, as*
23 *determined by the Director of the Office of Man-*
24 *agement and Budget.*

1 (B) *SPECIAL RULE.*—*If an applicant sub-*
2 *mits to the Director of the Office of Management*
3 *and Budget a request to apply the rules of this*
4 *subparagraph to the programs in the State in*
5 *which the applicant is located that are affected*
6 *by a demonstration project proposed in an ap-*
7 *plication submitted by the applicant pursuant to*
8 *this section, during such period of not more than*
9 *5 consecutive fiscal years in which the project is*
10 *in effect, and the Director determines, on the*
11 *basis of supporting information provided by the*
12 *applicant, to grant the request, then, notwith-*
13 *standing any other provision of law, the total of*
14 *the amounts that may be paid by the Federal*
15 *Government for the period with respect to the*
16 *programs shall not exceed the estimated total*
17 *amount that the Federal Government would have*
18 *paid for the period with respect to the programs*
19 *if the project had not been conducted.*

20 (5) *90-DAY APPROVAL DEADLINE.*—

21 (A) *IN GENERAL.*—*If an administering Sec-*
22 *retary receives an application to conduct a dem-*
23 *onstration project under this section and does*
24 *not disapprove the application within 90 days*
25 *after the receipt, then—*

1 (i) *the administering Secretary is*
2 *deemed to have approved the application for*
3 *such period as is requested in the applica-*
4 *tion, except to the extent inconsistent with*
5 *subsection (e); and*

6 (ii) *any waiver requested in the appli-*
7 *cation which applies to a qualified program*
8 *that is identified in the application and is*
9 *administered by the administering Sec-*
10 *retary is deemed to be granted, except to the*
11 *extent inconsistent with paragraph (2) or*
12 *(4) of this subsection.*

13 (B) *DEADLINE EXTENDED IF ADDITIONAL*
14 *INFORMATION IS SOUGHT.—The 90-day period*
15 *referred to in subparagraph (A) shall not include*
16 *any period that begins with the date the Sec-*
17 *retary requests the applicant to provide addi-*
18 *tional information with respect to the applica-*
19 *tion and ends with the date the additional infor-*
20 *mation is provided.*

21 (e) *DURATION OF PROJECTS.—A demonstration*
22 *project under this section may be approved for a term of*
23 *not more than 5 years.*

24 (f) *REPORTS TO CONGRESS.—*

1 (1) *REPORT ON DISPOSITION OF APPLICA-*
2 *TIONS.*—*Within 90 days after an administering Sec-*
3 *retary receives an application submitted pursuant to*
4 *this section, the administering Secretary shall submit*
5 *to each Committee of the Congress which has jurisdic-*
6 *tion over a qualified program identified in the appli-*
7 *cation notice of the receipt, a description of the deci-*
8 *sion of the administering Secretary with respect to*
9 *the application, and the reasons for approving or dis-*
10 *approving the application.*

11 (2) *REPORTS ON PROJECTS.*—*Each admin-*
12 *istering Secretary shall provide annually to the Con-*
13 *gress a report concerning demonstration projects ap-*
14 *proved under this section, including—*

15 (A) *the projects approved for each appli-*
16 *cant;*

17 (B) *the number of waivers granted under*
18 *this section, and the specific statutory provisions*
19 *waived;*

20 (C) *how well each project for which a waiv-*
21 *er is granted is improving or enhancing pro-*
22 *gram achievement from the standpoint of qual-*
23 *ity, cost-effectiveness, or both;*

1 (D) how well each project for which a waiver
2 is granted is meeting the performance objec-
3 tives specified in subsection (c)(3)(B);

4 (E) how each project for which a waiver is
5 granted is conforming with the cost-neutrality
6 requirements of subsection (d)(4); and

7 (F) to the extent the administering Sec-
8 retary deems appropriate, recommendations for
9 modification of programs based on outcomes of
10 the projects.

11 ***Subtitle G—Repeal of Continued***
12 ***Dumping and Subsidy Offset***

13 ***SEC. 8701. REPEAL OF CONTINUED DUMPING AND SUBSIDY***
14 ***OFFSET.***

15 (a) *REPEAL.*—Section 754 of the Tariff Act of 1930
16 (19 U.S.C. 1675c), and the item relating to section 754 in
17 the table of contents for title VII of that Act, are repealed.

18 (b) *EXISTING ACCOUNTS.*—All amounts remaining,
19 upon the enactment of this title, in any special account es-
20 tablished under section 754(e)(1) of the Tariff Act of 1930
21 (as in effect on the day before the date of the enactment
22 of this title) shall be deposited in the general fund of the
23 Treasury.

1 **Subtitle H—Effective Date**

2 **SEC. 8801. EFFECTIVE DATE.**

3 (a) *IN GENERAL.*—*Except as otherwise provided in*
4 *this title, this title and the amendments made by this title*
5 *shall be effective as of October 1, 2005.*

6 (b) *EXCEPTION.*—*In the case of a State plan under*
7 *title IV of the Social Security Act which the Secretary deter-*
8 *mines requires State legislation in order for the plan to*
9 *meet the additional requirements imposed by the amend-*
10 *ments made by this title, the effective date of the amend-*
11 *ments imposing the additional requirements shall be 3*
12 *months after the first day of the first calendar quarter be-*
13 *ginning after the close of the first regular session of the*
14 *State legislature that begins after the date of the enactment*
15 *of this Act. For purposes of the preceding sentence, in the*
16 *case of a State that has a 2-year legislative session, each*
17 *year of the session shall be considered to be a separate reg-*
18 *ular session of the State legislature.*

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

S. 1932

AMENDMENT