

## Union Calendar No. 151

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 4241****[Report No. 109-276]**

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 2005

Mr. NUSSLE, from the Committee on the Budget, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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**A BILL**

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Deficit Reduction Act  
5       of 2005”.

6       **SEC. 2. TABLE OF TITLES.**

7       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  
5   “**Agricultural Reconciliation Act of 2005**”.

6           (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this 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 commodities 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 improvements 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  
7 U.S.C. 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 pay-  
16 ments are provided under this section for those crop  
17 years), the Secretary shall reduce the total amount of the

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

9 (b) PEANUTS.—Section 1303 of such Act (7 U.S.C.  
10 7953) is amended—

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

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

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

1 are made for the 2010 or any subsequent crop of pea-  
2 nuts.”.

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

6 (a) COVERED COMMODITIES.—Section 1103(d)(2) of  
7 the Farm Security and Rural Investment Act of 2002 (7  
8 U.S.C. 7913(d)(2)) is amended in the first sentence by  
9 striking “2007 crop years” and inserting “2005 crop  
10 years and up to 40 percent of the direct payment for a  
11 covered commodity for each of the 2006 and 2007 crop  
12 years”.

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

18 **SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

19 (a) REPEAL OF AUTHORITY TO ISSUE COTTON USER  
20 MARKETING CERTIFICATES.—Section 1207 of the Farm  
21 Security and Rural Investment Act of 2002 (7 U.S.C.  
22 7937) is amended—

23 (1) by striking the section heading and insert-  
24 ing the following: “**UPLAND COTTON IMPORT**  
25 **QUOTAS.**”;

1 (2) by striking subsection (a);

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

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

5 (A) in paragraph (1)—

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

9 (ii) in subparagraph (C), by striking  
10 “, for the value of any certificates issued  
11 under subsection (a)”; and

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

14 (5) in subsection (b)(2), as so redesignated, by  
15 striking “subsection (b)” and inserting “subsection  
16 (a)”.

17 (b) CONFORMING AMENDMENT.—Section 136 of the  
18 Federal Agriculture Improvement and Reform Act of 1996  
19 (7 U.S.C. 7236) is repealed.

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

## 1                   **Subtitle B—Conservation**

### 2   **SEC. 1201. LIMITATIONS ON USE OF COMMODITY CREDIT** 3                   **CORPORATION FUNDS TO CARRY OUT WA-** 4                   **TERSHEDED REHABILITATION PROGRAM.**

5           (a) FISCAL YEAR 2007 FUNDING.—Subparagraph  
6 (E) of section 14(h)(1) of the Watershed Protection and  
7 Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended  
8 by striking “\$65,000,000” and inserting “\$50,000,000”.

9           (b) TERMINATION OF MULTI-YEAR AVAILABILITY OF  
10 FUNDS.—Such section is further amended by striking “,  
11 to remain available until expended” in the matter pre-  
12 ceding subparagraph (A).

13           (c) RESCISSION OF UNOBLIGATED PRIOR-YEAR  
14 FUNDS.—Funds previously made available under such  
15 section for a fiscal year and unobligated as of September  
16 30, 2006, are hereby rescinded effective on that date.

### 17   **SEC. 1202. CONSERVATION SECURITY PROGRAM.**

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

20                   (1) in the matter before paragraph (1), by  
21 striking “For” and inserting “Except as otherwise  
22 provided in this subsection, for”; and

23                   (2) in paragraph (3), by striking “not more  
24 than \$6,037,000,000” and all that follows through  
25 “2014.” and inserting the following:

1 “not more than—

2 “(A) \$2,213,000,000 for the period of fis-  
3 cal years 2006 through 2010; and

4 “(B) \$5,729,000,000 for the period of fis-  
5 cal years 2006 through 2015.”.

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

9 **SEC. 1203. LIMITATIONS ON USE OF COMMODITY CREDIT**  
10 **CORPORATION FUNDS TO CARRY OUT AGRI-**  
11 **CULTURAL MANAGEMENT ASSISTANCE PRO-**  
12 **GRAM.**

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

15 (1) in clause (i), by inserting before the period  
16 at the end the following: “, except fiscal years 2007  
17 through 2010”; and

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

## **Subtitle C—Energy**

1                                   **SEC. 1301. TERMINATION OF USE OF COMMODITY CREDIT**  
2                                   **CORPORATION FUNDS TO CARRY OUT RE-**  
3                                   **NEWABLE ENERGY SYSTEMS AND ENERGY**  
4                                   **EFFICIENCY IMPROVEMENTS PROGRAM.**  
5

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

## **Subtitle D—Rural Development**

9                                   **SEC. 1401. ENHANCED ACCESS TO BROADBAND TELE-**  
10                                   **COMMUNICATIONS SERVICES IN RURAL**  
11                                   **AREAS.**  
12

13           (a) **TERMINATION OF FISCAL YEAR 2007 FUND-**  
14 **ING.**—Subparagraph (B) of section 601(j)(1) of the Rural  
15 Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)) is  
16 amended by striking “for each of fiscal years 2006 and  
17 2007” and inserting “for fiscal year 2006”.

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

21           (c) **RESCISSION OF UNOBLIGATED PRIOR-YEAR**  
22 **FUNDS.**—Funds previously made available under such  
23 section for a fiscal year and unobligated as of September  
24 30, 2006, are hereby rescinded effective on that date.

1 **SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MAR-**  
2 **KET DEVELOPMENT GRANTS.**

3 (a) TERMINATION OF FISCAL YEAR 2007 FUND-  
4 ING.—Section 231(b)(4) of the Agricultural Risk Protec-  
5 tion Act of 2000 (Public Law 106–224; 7 U.S.C. 1621  
6 note) is amended by striking “October 1, 2006” and in-  
7 serting “October 1, 2005”.

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

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

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

16 (a) TERMINATION OF FISCAL YEAR 2007 AND SUB-  
17 SEQUENT FUNDING.—Subsection (a)(1) of section 384S  
18 of the Consolidated Farm and Rural Development Act (7  
19 U.S.C. 2009cc–18) is amended by inserting after “nee-  
20 essary” the following: “through fiscal year 2006”.

21 (b) TERMINATION OF MULTI-YEAR AVAILABILITY OF  
22 FUNDS.—Such section is further amended—

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

24 (2) by striking subsection (b).

25 (c) RESCISSION OF UNOBLIGATED PRIOR-YEAR  
26 FUNDS.—Funds previously made available under such

1 section and unobligated as of September 30, 2006, are  
2 hereby rescinded effective on that date.

3 **SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT**  
4 **GRANTS.**

5 (a) **TERMINATION OF MULTI-YEAR AVAILABILITY OF**  
6 **FUNDS.**—Subsection (a) of section 385E of the Consoli-  
7 dated Farm and Rural Development Act (7 U.S.C.  
8 2009dd–4) is amended by striking “, to remain available  
9 until expended,”.

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

14 **SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PER-**  
15 **SONNEL GRANTS.**

16 (a) **TERMINATION OF FISCAL YEAR 2007 FUND-**  
17 **ING.**—Section 6405(c) of the Farm Security and Rural In-  
18 vestment Act of 2002 (7 U.S.C. 2655(c)) is amended by  
19 striking “2007” and inserting “2006”.

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

23 (c) **RESCISSION OF UNOBLIGATED PRIOR-YEAR**  
24 **FUNDS.**—Funds previously made available under such

1 section for a fiscal year and unobligated as of September  
2 30, 2006, are hereby rescinded effective on that date.

### 3 **Subtitle E—Research**

#### 4 **SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.** 5

6 (a) TERMINATION OF FISCAL YEAR 2007, 2008, AND  
7 2009 TRANSFERS.—Subsection (b)(3)(D) of section 401  
8 of the Agricultural Research, Extension, and Education  
9 Reform Act of 1998 (7 U.S.C. 7621) is amended by strik-  
10 ing “2006” and inserting “2009”.

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

14 “(6) AVAILABILITY OF FUNDS.—

15 “(A) TWO-YEAR AVAILABILITY.—Except as  
16 provided in subparagraph (B), funds for grants  
17 under this section shall be available to the Sec-  
18 retary for obligation for a 2-year period begin-  
19 ning on the date of the transfer of the funds  
20 under subsection (b).

21 “(B) EXCEPTION FOR FISCAL YEAR 2006  
22 TRANSFER.—In the case of the funds required  
23 to be transferred by subsection (b)(3)(C), the  
24 funds shall be available to the Secretary for ob-

1 ligation for the 1-year period beginning on Oc-  
2 tober 1, 2005.”.

### 3 **Subtitle F—Nutrition**

#### 4 **SEC. 1601. ELIGIBLE HOUSEHOLDS.**

5 (a) ELIGIBLE HOUSEHOLDS.—Section 5 of the Food  
6 Stamp Act of 1977 (7 U.S.C. 2014) is amended—

7 (1) in the 2d sentence of subsection (a); and

8 (2) in subsection (j);

9 by striking “receives benefits” each place it appears and  
10 inserting “in fiscal years 2006 through 2010 receives cash  
11 assistance, and in any other fiscal year receives benefits,”.

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

14 (1) section 11(t)(1);

15 (2) section 16—

16 (A) in subparagraphs (A)(vii) and (E)(i) of  
17 subsection (h)(1); and

18 (B) in subparagraphs (A) and (B)(ii) of  
19 subsection (k)(3);

20 (3) section 17(b)(1)(B)(vi);

21 (4) section 18(a); and

22 (5) section 19(a)(2)(A)(ii);

23 by striking “2007” each place it appears and inserting  
24 “2011”.

1 **SEC. 1602. AVAILABILITY OF COMMODITIES FOR THE EMER-**  
2 **GENCY FOOD ASSISTANCE PROGRAM.**

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

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

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

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

11 “Of the funds used to purchase commodities in accordance  
12 with this subsection for fiscal year 2006, \$12,000,000  
13 shall be used to purchase commodities for distribution to  
14 States that received a Presidential designation of a major  
15 disaster under the Robert T. Stafford Disaster Relief and  
16 Emergency Assistance Act (42 U.S.C. 5121–5206) as a  
17 result of Hurricane Katrina or Hurricane Rita and States  
18 contiguous to those States.”.

19 **SEC. 1603. RESIDENCY REQUIREMENT.**

20 Section 402(a)(2)(L) of the Personal Responsibility  
21 and Work Opportunity Reconciliation Act of 1996 (8  
22 U.S.C. 1612(a)(2)(L)) is amended by striking “5 years  
23 or more” and inserting “7 years or more effective until  
24 September 30, 2010, and for a period of 5 years or more  
25 effective beginning on October 1, 2010,”.

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

2       Notwithstanding section 16(a) of the Food Stamp  
 3 Act of 1977 (7 U.S.C. 2025(a)), the Secretary of Agri-  
 4 culture is authorized, at the discretion of the Secretary,  
 5 to pay to State agencies 100 percent of the administrative  
 6 costs incurred in the certification of, and issuance of bene-  
 7 fits to, applicant households that become eligible to receive  
 8 food stamp benefits under the disaster food stamp pro-  
 9 gram eligibility standards in effect during the Presi-  
 10 dentially declared emergency in response to Hurricane  
 11 Katrina or Hurricane Rita.

12 **TITLE II—COMMITTEE ON EDU-**  
 13 **CATION AND THE WORK-**  
 14 **FORCE**

15 **SECTION 2000. TABLE OF CONTENTS.**

16       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  
11 made to a section or other provision of the Social Security  
12 Act.

13                                   **PART 2—TANF**

14   **SEC. 2011. UNIVERSAL ENGAGEMENT AND FAMILY SELF-  
15                                   SUFFICIENCY PLAN REQUIREMENTS.**

16           (a) MODIFICATION OF STATE PLAN REQUIRE-  
17 MENTS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A))

1 is amended by striking clauses (ii) and (iii) and inserting  
2 the following:

3                   “(ii) Require a parent or caretaker re-  
4                   ceiving assistance under the program to  
5                   engage in work or alternative self-suffi-  
6                   ciency activities (as defined by the State),  
7                   consistent with section 407(e)(2).

8                   “(iii) Require families receiving assist-  
9                   ance under the program to engage in ac-  
10                  tivities in accordance with family self-suffi-  
11                  ciency plans developed pursuant to section  
12                  408(b).”.

13           (b) ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY  
14 PLANS.—

15           (1) IN GENERAL.—Section 408(b) (42 U.S.C.  
16 608(b)) is amended to read as follows:

17           “(b) FAMILY SELF-SUFFICIENCY PLANS.—

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

20           “(A) assess, in the manner deemed appro-  
21           priate by the State, the skills, prior work expe-  
22           rience, and employability of each work-eligible  
23           individual (as defined in section 407(b)(2)(C))  
24           receiving assistance under the State program  
25           funded under this part;

1           “(B) establish for each family that in-  
2           cludes such an individual, in consultation as the  
3           State deems appropriate with the individual, a  
4           self-sufficiency plan that specifies appropriate  
5           activities described in the State plan submitted  
6           pursuant to section 402, including direct work  
7           activities as appropriate designed to assist the  
8           family in achieving their maximum degree of  
9           self-sufficiency, and that provides for the ongo-  
10          ing participation of the individual in the activi-  
11          ties;

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

15           “(D) monitor the participation of each  
16          such individual in the activities specified in the  
17          self-sufficiency plan, and regularly review the  
18          progress of the family toward self-sufficiency;

19           “(E) upon such a review, revise the self-  
20          sufficiency plan and activities as the State  
21          deems appropriate.

22           “(2) TIMING.—The State shall comply with  
23          paragraph (1) with respect to a family—

24           “(A) in the case of a family that, as of Oc-  
25          tober 1, 2005, is not receiving assistance from

1 the State program funded under this part, not  
2 later than 60 days after the family first receives  
3 assistance on the basis of the most recent appli-  
4 cation for the assistance; or

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

9 “(3) STATE DISCRETION.—A State shall have  
10 sole discretion, consistent with section 407, to define  
11 and design activities for families for purposes of this  
12 subsection, to develop methods for monitoring and  
13 reviewing progress pursuant to this subsection, and  
14 to make modifications to the plan as the State  
15 deems appropriate to assist the individual in increas-  
16 ing their degree of self-sufficiency.

17 “(4) RULE OF INTERPRETATION.—Nothing in  
18 this part shall preclude a State from--

19 “(A) requiring participation in work and  
20 any other activities the State deems appropriate  
21 for helping families achieve self-sufficiency and  
22 improving child well-being; or

23 “(B) using job search or other appropriate  
24 job readiness or work activities to assess the

1           employability of individuals and to determine  
2           appropriate future engagement activities.”.

3           (2) PENALTY FOR FAILURE TO ESTABLISH  
4           FAMILY SELF-SUFFICIENCY PLAN.—Section  
5           409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

6                   (A) in the paragraph heading, by inserting  
7                   “OR ESTABLISH FAMILY SELF-SUFFICIENCY  
8                   PLAN” after “RATES”; and

9                   (B) in subparagraph (A), by inserting “or  
10                  408(b)” after “407(a)”.

11 **SEC. 2012. WORK PARTICIPATION REQUIREMENTS.**

12           (a) ELIMINATION OF SEPARATE PARTICIPATION  
13           RATE REQUIREMENTS FOR 2-PARENT FAMILIES.—

14                   (1) Section 407 (42 U.S.C. 607) is amended in  
15                   each of subsections (a) and (b) by striking para-  
16                   graph (2).

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

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

22                   (4) Section 407(c)(2)(D) (42 U.S.C.  
23                   607(c)(2)(D)) is amended by striking “paragraphs  
24                   (1)(B)(i) and (2)(B) of subsection (b)” and inserting  
25                   “subsection (b)(1)(B)(i)”.

1 (b) WORK PARTICIPATION REQUIREMENTS.—Section  
2 407 (42 U.S.C. 607) is amended by striking all that pre-  
3 cedes subsection (b)(3) and inserting the following:

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

5 “(a) PARTICIPATION RATE REQUIREMENTS.—A  
6 State to which a grant is made under section 403 for a  
7 fiscal year shall achieve a minimum participation rate  
8 equal to not less than—

9 “(1) 50 percent for fiscal year 2006;

10 “(2) 55 percent for fiscal year 2007;

11 “(3) 60 percent for fiscal year 2008;

12 “(4) 65 percent for fiscal year 2009; and

13 “(5) 70 percent for fiscal year 2010 and each  
14 succeeding fiscal year.

15 “(b) CALCULATION OF PARTICIPATION RATES.—

16 “(1) AVERAGE MONTHLY RATE.—For purposes  
17 of subsection (a), the participation rate of a State  
18 for a fiscal year is the average of the participation  
19 rates of the State for each month in the fiscal year.

20 “(2) MONTHLY PARTICIPATION RATES; INCOR-  
21 PORATION OF 40-HOUR WORK WEEK STANDARD.—

22 “(A) IN GENERAL.—For purposes of para-  
23 graph (1), the participation rate of a State for  
24 a month is—

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

5           “(ii) 160 multiplied by the number of  
6 counted families for the State for the  
7 month.

8           “(B) COUNTED FAMILIES DEFINED.—

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

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

20           “(I) a family in the first month  
21 for which the family receives assist-  
22 ance from a State program funded  
23 under this part on the basis of the  
24 most recent application for such as-  
25 sistance;

1                   “(II) on a case-by-case basis, a  
2 family in which the youngest child has  
3 not attained 12 months of age; or

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

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

20                   “(C) WORK-ELIGIBLE INDIVIDUAL DE-  
21 FINED.—In this section, the term ‘work-eligible  
22 individual’ means an individual—

23                   “(i) who is married or a single head  
24 of household; and

1           “(ii) whose needs are (or, but for  
2           sanctions under this part or part D, would  
3           be) included in determining the amount of  
4           cash assistance to be provided to the fam-  
5           ily under the State program funded under  
6           this part.”.

7           (c) RECALIBRATION OF CASELOAD REDUCTION  
8 CREDIT.—

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

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

16          (2) CONFORMING AMENDMENT.—Section  
17          407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended  
18          by striking “and eligibility criteria” and all that fol-  
19          lows through the close parenthesis and inserting  
20          “and the eligibility criteria in effect during the then  
21          applicable base year”.

22          (3) BASE YEAR DEFINED.—Section 407(b)(3)  
23          (42 U.S.C. 607(b)(3)) is amended by adding at the  
24          end the following:

1           “(C) BASE YEAR DEFINED.—In this para-  
2 graph, the term ‘base year’ means, with respect  
3 to a fiscal year—

4           “(i) if the fiscal year is fiscal year  
5 2006, fiscal year 1996;

6           “(ii) if the fiscal year is fiscal year  
7 2007, fiscal year 1998;

8           “(iii) if the fiscal year is fiscal year  
9 2008, fiscal year 2001; or

10           “(iv) if the fiscal year is fiscal year  
11 2009 or any succeeding fiscal year, the  
12 then 4th preceding fiscal year.”.

13           (d) SUPERACHIEVER CREDIT.—Section 407(b) (42  
14 U.S.C. 607(b)) is amended by striking paragraphs (4) and  
15 (5) and inserting the following:

16           “(4) SUPERACHIEVER CREDIT.—

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

22           “(i) the amount (if any) of the super-  
23 achiever credit applicable to the State; or

24           “(ii) the number of percentage points  
25 (if any) by which the minimum participa-

1                   tion rate required by subsection (a) for the  
2                   fiscal year exceeds 50 percent.

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

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

13                  “(D) DEFINITIONS.—In this paragraph:

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

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

1 part A (as in effect on September 30,  
2 1995) during fiscal year 1995.”.

3 (e) COUNTABLE HOURS.—Section 407 (42 U.S.C.  
4 607) is amended by striking subsections (c) and (d) and  
5 inserting the following:

6 “(c) COUNTABLE HOURS.—

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

16 “(2) LIMITATIONS.—Subject to such regula-  
17 tions as the Secretary may prescribe:

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

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

8           “(3) SPECIAL RULES.—For purposes of para-  
9           graph (1):

10           “(A) PARTICIPATION IN QUALIFIED AC-  
11           TIVITIES.—

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

20           “(ii) QUALIFIED ACTIVITY DE-  
21           FINED.—The term ‘qualified activity’  
22           means an activity specified by the State  
23           (subject to the exclusion described in para-  
24           graph (1)) that meets such standards and

1 criteria as the State may specify, includ-  
2 ing—

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

5 “(II) rehabilitation treatment  
6 and 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  
17 provided in subclause (II), clause (i)  
18 shall not apply to a family for more  
19 than 3 months in any period of 24  
20 consecutive 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  
4           other work-related education or train-  
5           ing directed at enabling the individual  
6           to fill a known job need in a local  
7           area, may be considered countable  
8           hours with respect to the family of the  
9           individual for not more than 4 months  
10          in any period of 24 consecutive  
11          months.

12           “(B) SCHOOL ATTENDANCE BY TEEN  
13          HEAD OF HOUSEHOLD.—The work-eligible  
14          members of a family shall be considered to be  
15          engaged in a direct work activity for an average  
16          of 40 hours per week in a month if the family  
17          includes an individual who is married, or is a  
18          single head of household, who has not attained  
19          20 years of age, and the individual—

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

23                   “(ii) participates in education directly  
24                   related to employment for an average of at  
25                   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  
7 which the minor children reside, during the pe-  
8 riod in which the family receives assistance  
9 under the program funded under this part.  
10 Hours spent in such activity may be specified  
11 by the State as countable hours for purposes of  
12 paragraph (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  
23 follows:

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 fund-  
4 ed under this part fails to engage in activities  
5 required in accordance with this section, or  
6 other activities required by the State under the  
7 program, and the family does not otherwise en-  
8 gage in activities in accordance with the self-  
9 sufficiency plan established for the family pur-  
10 suant 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, termi-  
25 nate all cash payments to the family in-

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

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  
12 requirement of a State constitution, or of  
13 a 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  
21 the enactment of this subparagraph.”.

22 (g) CONFORMING AMENDMENTS.—

23 (1) Section 407(f) (42 U.S.C. 607(f)) is amend-  
24 ed in each of paragraphs (1) and (2) by striking

1 “work activity described in subsection (d)” and in-  
2 sserting “direct work activity”.

3 (2) The heading of section 409(a)(14) (42  
4 U.S.C. 609(a)(14)) is amended by inserting “OR RE-  
5 FUSING TO ENGAGE IN ACTIVITIES UNDER A FAMILY  
6 SELF-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  
16 reducing poverty by promoting job  
17 preparation and work;

18 “(II) include specific, numerical,  
19 and measurable performance objec-  
20 tives for accomplishing subclause (I);  
21 and

22 “(III) describe the methodology  
23 that the State will use to measure  
24 State performance in relation to each  
25 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  
17 One-Stop delivery system created  
18 under the Workforce Investment Act  
19 of 1998, and the extent to which  
20 former recipients of such assistance  
21 have access to additional core, inten-  
22 sive, or training services funded  
23 through such Act.”; and

24           (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 add-  
3 ing 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 de-  
11 scribed in section 402(a)(1)(A)(vii).”.

12 (c) ANNUAL RANKING OF STATES.—Section  
13 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking  
14 “long-term private sector jobs,” and inserting “private  
15 sector jobs, the success of the recipients in retaining em-  
16 ployment, the ability of the recipients to increase their  
17 wages,”.

18 (d) PERFORMANCE IMPROVEMENT.—Section 413 (42  
19 U.S.C. 613) is amended by adding at the end the fol-  
20 lowing:

21 “(k) PERFORMANCE IMPROVEMENT.—The Secretary,  
22 in consultation with States, shall develop uniform perform-  
23 ance measures designed to assess the degree of effective-  
24 ness, and the degree of improvement, of State programs

1 funded under this part in accomplishing the work-related  
2 purposes of this part.”.

3 **SEC. 2014. REPORT ON COORDINATION.**

4 Not later than 6 months after the date of the enact-  
5 ment of this Act, the Secretary of Health and Human  
6 Services and the Secretary of Labor shall jointly submit  
7 a report to the Congress describing common or conflicting  
8 data elements, definitions, performance measures, and re-  
9 porting requirements in the Workforce Investment Act of  
10 1998 and part A of title IV of the Social Security Act,  
11 and, to the degree each Secretary deems appropriate, at  
12 the discretion of either Secretary, any other program ad-  
13 ministered by the respective Secretary, to allow greater co-  
14 ordination between the welfare and workforce development  
15 systems.

16 **SEC. 2015. 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)  
3 is 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  
7 substantial evidence strongly indicating the urgent need  
8 to promote and support involved, committed, and respon-  
9 sible fatherhood, and to encourage and support healthy  
10 marriages between parents raising children, including data  
11 demonstrating 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 dur-  
22 ing infancy and early childhood contributes to the  
23 development of emotional security, curiosity, and  
24 math 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, men-  
13 toring, and parenting education, dissemination  
14 of educational materials and information on  
15 parenting skills, encouragement of positive fa-  
16 ther involvement, including the positive involve-  
17 ment of nonresident fathers, and other meth-  
18 ods.

19           ‘(B) Enhancing the abilities and commit-  
20 ment of unemployed or low-income fathers to  
21 provide material support for their families and  
22 to avoid or leave welfare programs by assisting  
23 them to take full advantage of education, job  
24 training, and job search programs, to improve  
25 work habits and work skills, to secure career

1 advancement by activities such as outreach and  
2 information dissemination, coordination, as ap-  
3 propriate, with employment services and job  
4 training programs, including the One-Stop de-  
5 livery system established under title I of the  
6 Workforce Investment Act of 1998, encourage-  
7 ment and support of timely payment of current  
8 child support and regular payment toward past  
9 due child support obligations in appropriate  
10 cases, and other methods.

11 ‘(C) Improving fathers’ ability to effec-  
12 tively manage family business affairs by means  
13 such as education, counseling, and mentoring in  
14 matters including household management,  
15 budgeting, banking, and handling of financial  
16 transactions, time management, and home  
17 maintenance.

18 ‘(D) Encouraging and supporting healthy  
19 marriages and married fatherhood through such  
20 activities as premarital education, including the  
21 use of premarital inventories, marriage prepara-  
22 tion programs, skills-based marriage education  
23 programs, marital therapy, couples counseling,  
24 divorce education and reduction programs, di-  
25 vorce mediation and counseling, relationship

1 skills enhancement programs, including those  
2 designed to reduce child abuse and domestic vi-  
3 olence, and dissemination of information about  
4 the benefits of marriage for both parents and  
5 children.

6 ‘(2) Through the projects and activities de-  
7 scribed in paragraph (1), to improve outcomes for  
8 children with respect to measures such as increased  
9 family income and economic security, improved  
10 school performance, better health, improved emo-  
11 tional and behavioral stability and social adjustment,  
12 and reduced risk of delinquency, crime, substance  
13 abuse, child abuse and neglect, teen sexual activity,  
14 and teen suicide.

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

20 **‘SEC. 442. DEFINITIONS.**

21 ‘In this part, the terms “Indian tribe” and “tribal  
22 organization” have the meanings given them in sub-  
23 sections (e) and (l), respectively, of section 4 of the Indian  
24 Self-Determination and Education Assistance Act.

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

2       ‘(a) IN GENERAL.—The Secretary may make grants  
3 for fiscal years 2006 through 2010 to public and nonprofit  
4 community entities, including religious organizations, and  
5 to Indian tribes and tribal organizations, for demonstra-  
6 tion service projects and activities designed to test the ef-  
7 fectiveness of various approaches to accomplish the objec-  
8 tives specified in section 441(b)(1).

9       ‘(b) ELIGIBILITY CRITERIA FOR FULL SERVICE  
10 GRANTS.—In order to be eligible for a grant under this  
11 section, except as specified in subsection (c), an entity  
12 shall submit an application to the Secretary containing the  
13 following:

14           ‘(1) PROJECT DESCRIPTION.—A statement in-  
15 cluding—

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

22               ‘(B) a description of the methods to be  
23 used by the entity or its contractor to assess  
24 the extent to which the project was successful  
25 in accomplishing its specific objectives and the  
26 general objectives specified in section 441(b)(1).

1           ‘(2) EXPERIENCE AND QUALIFICATIONS.—A  
2 demonstration of ability to carry out the project, by  
3 means such as demonstration of experience in suc-  
4 cessfully carrying out projects of similar design and  
5 scope, and such other information as the Secretary  
6 may find necessary to demonstrate the entity’s ca-  
7 pacity to carry out the project, including the entity’s  
8 ability to provide the non-Federal share of project  
9 resources.

10           ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT  
11 AND DOMESTIC VIOLENCE.—A description of how  
12 the entity will assess for the presence of, and inter-  
13 vene to resolve, domestic violence and child abuse  
14 and neglect, including how the entity will coordinate  
15 with State and local child protective service and do-  
16 mestic violence programs.

17           ‘(4) ADDRESSING CONCERNS RELATING TO  
18 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-  
19 mitment to make available to each individual partici-  
20 pating in the project education about alcohol, to-  
21 bacco, and other drugs, and about the health risks  
22 associated with abusing such substances, and infor-  
23 mation about diseases and conditions transmitted  
24 through substance abuse and sexual contact, includ-

1 ing HIV/AIDS, and to coordinate with providers of  
2 services addressing such problems, as appropriate.

3 ‘(5) COORDINATION WITH SPECIFIED PRO-  
4 GRAMS.—An undertaking to coordinate, as appro-  
5 priate, with State and local entities responsible for  
6 the programs under parts A, B, and D of this title,  
7 including programs under title I of the Workforce  
8 Investment Act of 1998 (including the One-Stop de-  
9 livery system), and such other programs as the Sec-  
10 retary may require.

11 ‘(6) RECORDS, REPORTS, AND AUDITS.—An  
12 agreement to maintain such records, make such re-  
13 ports, and cooperate with such reviews or audits as  
14 the Secretary may find necessary for purposes of  
15 oversight of project activities and expenditures.

16 ‘(7) SELF-INITIATED EVALUATION.—If the enti-  
17 ty elects to contract for independent evaluation of  
18 the project (part or all of the cost of which may be  
19 paid for using grant funds), a commitment to sub-  
20 mit to the Secretary a copy of the evaluation report  
21 within 30 days after completion of the report and  
22 not more than 1 year after completion of the project.

23 ‘(8) COOPERATION WITH SECRETARY’S OVER-  
24 SIGHT AND EVALUATION.—An agreement to cooper-  
25 ate with the Secretary’s evaluation of projects as-

1       sisted under this section, by means including ran-  
2       dom assignment of clients to service recipient and  
3       control groups, if determined by the Secretary to be  
4       appropriate, and affording the Secretary access to  
5       the project and to project-related records and docu-  
6       ments, staff, and clients.

7       ‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE  
8 GRANTS.—In order to be eligible for a grant under this  
9 section in an amount under \$25,000 per fiscal year, an  
10 entity shall submit an application to the Secretary con-  
11 taining the following:

12           ‘(1) PROJECT DESCRIPTION.—A description of  
13       the project and how it will be carried out, including  
14       the number and characteristics of clients to be  
15       served, the proposed duration of the project, and  
16       how it will address at least 1 of the 4 objectives  
17       specified in section 441(b)(1).

18           ‘(2) QUALIFICATIONS.—Such information as  
19       the Secretary may require as to the capacity of the  
20       entity to carry out the project, including any pre-  
21       vious experience with similar activities.

22           ‘(3) COORDINATION WITH RELATED PRO-  
23 GRAMS.—As required by the Secretary in appro-  
24 priate cases, an undertaking to coordinate and co-  
25 operate with State and local entities responsible for

1 specific programs relating to the objectives of the  
2 project including, as appropriate, jobs programs and  
3 programs serving children and families.

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

9 ‘(5) COOPERATION WITH SECRETARY’S OVER-  
10 SIGHT AND EVALUATION.—An agreement to cooper-  
11 ate with the Secretary’s evaluation of projects as-  
12 sisted under this section, by means including afford-  
13 ing the Secretary access to the project and to  
14 project-related records and documents, staff, and cli-  
15 ents.

16 ‘(d) CONSIDERATIONS IN AWARDING GRANTS.—

17 ‘(1) DIVERSITY OF PROJECTS.—In awarding  
18 grants under this section, the Secretary shall seek to  
19 achieve a balance among entities of differing sizes,  
20 entities in differing geographic areas, entities in  
21 urban and in rural areas, and entities employing dif-  
22 fering methods of achieving the purposes of this sec-  
23 tion, including working with the State agency re-  
24 sponsible for the administration of part D to help fa-  
25 thers satisfy child support arrearage obligations.

1           ‘(2) PREFERENCE FOR PROJECTS SERVING  
2           LOW-INCOME FATHERS.—In awarding grants under  
3           this section, the Secretary may give preference to  
4           applications for projects in which a majority of the  
5           clients to be served are low-income fathers.

6           ‘(e) FEDERAL SHARE.—

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

11                  ‘(A) up to 80 percent (or up to 90 percent,  
12                  if the entity demonstrates to the Secretary’s  
13                  satisfaction circumstances limiting the entity’s  
14                  ability to secure non-Federal resources) in the  
15                  case of a project under subsection (b); and

16                  ‘(B) up to 100 percent, in the case of a  
17                  project under subsection (c).

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

1 **SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**  
2 **PROJECTS.**

3 (a) **IN GENERAL.**—The Secretary may make grants  
4 under this section for fiscal years 2006 through 2010 to  
5 eligible entities (as specified in subsection (b)) for  
6 multicity, multistate projects demonstrating approaches to  
7 achieving the objectives specified in section 441(b)(1). One  
8 of the projects shall test the use of married couples to  
9 deliver program services.

10 (b) **ELIGIBLE ENTITIES.**—An entity eligible for a  
11 grant under this section must be a national nonprofit fa-  
12 therhood promotion organization that meets the following  
13 requirements:

14 (1) **EXPERIENCE WITH FATHERHOOD PRO-**  
15 **GRAMS.**—The organization must have substantial ex-  
16 perience in designing and successfully conducting  
17 programs that meet the purposes described in sec-  
18 tion 441.

19 (2) **EXPERIENCE WITH MULTICITY,**  
20 **MULTISTATE PROGRAMS AND GOVERNMENT COORDI-**  
21 **NATION.**—The organization must have experience in  
22 simultaneously conducting such programs in more  
23 than 1 major metropolitan area in more than 1  
24 State and in coordinating such programs, where ap-  
25 propriate, with State and local government agencies  
26 and private, nonprofit agencies (including commu-

1 nity-based and religious organizations), including  
2 State or local agencies responsible for child support  
3 enforcement and workforce development.

4 ‘(c) APPLICATION REQUIREMENTS.—In order to be  
5 eligible for a grant under this section, an entity must sub-  
6 mit to the Secretary an application that includes the fol-  
7 lowing:

8 ‘(1) QUALIFICATIONS.—

9 ‘(A) ELIGIBLE ENTITY.—A demonstration  
10 that the entity meets the requirements of sub-  
11 section (b).

12 ‘(B) OTHER.—Such other information as  
13 the Secretary may find necessary to dem-  
14 onstrate the entity’s capacity to carry out the  
15 project, including the entity’s ability to provide  
16 the non-Federal share of project resources.

17 ‘(2) PROJECT DESCRIPTION.—A description of  
18 and commitments concerning the project design, in-  
19 cluding the following:

20 ‘(A) IN GENERAL.—A detailed description  
21 of the proposed project design and how it will  
22 be carried out, which shall—

23 ‘(i) provide for the project to be con-  
24 ducted in at least 3 major metropolitan  
25 areas;

1           ‘(ii) state how it will address each of  
2           the 4 objectives specified in section  
3           441(b)(1);

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

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

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

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

1 project operation and outcomes (by means  
2 including, to the maximum extent feasible,  
3 random assignment of clients to service re-  
4 cipient and control groups), and to provide  
5 for mid-course adjustments in project de-  
6 sign indicated by interim evaluations;

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

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

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

23 ‘(4) ADDRESSING CONCERNS RELATING TO  
24 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-  
25 mitment to make available to each individual partici-

1       pating in the project education about alcohol, to-  
2       bacco, and other drugs, and about the health risks  
3       associated with abusing such substances, and infor-  
4       mation about diseases and conditions transmitted  
5       through substance abuse and sexual contact, includ-  
6       ing HIV/AIDS, and to coordinate with providers of  
7       services addressing such problems, as appropriate.

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

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

23          ‘(d) FEDERAL SHARE.—

24           ‘(1) IN GENERAL.—Grants for a project under  
25      this section for a fiscal year shall be available for up

1 to 80 percent of the cost of such project in such fis-  
2 cal year.

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

8 **SEC. 445. ECONOMIC INCENTIVE DEMONSTRATION**  
9 **PROJECTS.**

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

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

5           ‘(1) EXPERIENCE WITH FATHERHOOD PRO-  
6 GRAMS.—The organization must have substantial ex-  
7 perience in designing and successfully conducting  
8 programs that meet the purposes described in sec-  
9 tion 441.

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

19          ‘(3) NEGOTIATED AGREEMENTS WITH STATE  
20 AND LOCAL AGENCIES FOR APPROPRIATE POLICY  
21 CHANGES TO ADDRESS BARRIERS TO EMPLOY-  
22 MENT.—The organization must have agreements in  
23 place with State and local government agencies, in-  
24 cluding State or local agencies responsible for child  
25 support enforcement and workforce development, to

1 incorporate appropriate policy changes proposed to  
2 address barriers to employment.

3 ‘(c) APPLICATION REQUIREMENTS.—In order to be  
4 eligible for a grant under this section, an entity must sub-  
5 mit to the Secretary an application that includes the fol-  
6 lowing:

7 ‘(1) QUALIFICATIONS.—

8 ‘(A) ELIGIBLE ENTITY.—A demonstration  
9 that the entity meets the requirements of sub-  
10 section (b).

11 ‘(B) OTHER.—Such other information as  
12 the Secretary may find necessary to dem-  
13 onstrate the entity’s capacity to carry out the  
14 project, including the entity’s ability to provide  
15 the non-Federal share of project resources.

16 ‘(2) PROJECT DESCRIPTION.—A description of  
17 and commitments concerning the project design, in-  
18 cluding the following:

19 ‘(A) IN GENERAL.—A detailed description  
20 of the proposed project design and how the  
21 project will be carried out, which shall—

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

1           ‘(ii) state how the project will address  
2           employment barriers across programs  
3           (such as child support, criminal justice,  
4           and workforce development programs)  
5           using both sanctions and compliance along  
6           with monetary incentives for obtaining em-  
7           ployment, with earning subsidies contin-  
8           gent upon work and child support pay-  
9           ment;

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

17           ‘(iv) demonstrate that the project is  
18           designed to direct a majority of project re-  
19           sources to activities serving low-income fa-  
20           thers (but the project need not make serv-  
21           ices available on a means-tested basis).

22           ‘(B) OVERSIGHT, EVALUATION, AND AD-  
23           JUSTMENT COMPONENT.—An agreement that  
24           the entity—

1           ‘(i) in consultation with the evaluator  
2           selected pursuant to section 446, and as  
3           required by the Secretary, will modify the  
4           project design, initially and (if necessary)  
5           subsequently throughout the duration of  
6           the project, in order to facilitate ongoing  
7           and final oversight and evaluation of  
8           project operation and outcomes (by means  
9           including, to the maximum extent feasible,  
10          random assignment of clients to service re-  
11          cipient and control groups), and to provide  
12          for mid-course adjustments in project de-  
13          sign indicated by interim evaluations;

14          ‘(ii) will submit to the Secretary re-  
15          vised descriptions of the project design as  
16          modified in accordance with clause (i); and

17          ‘(iii) will cooperate fully with the Sec-  
18          retary’s ongoing oversight and ongoing and  
19          final evaluation of the project, by means  
20          including affording the Secretary access to  
21          the project and to project-related records  
22          and documents, staff, and clients.

23           ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT  
24           AND DOMESTIC VIOLENCE.—A description of how  
25           the entity will assess for the presence of, and inter-

1       vene to resolve, domestic violence and child abuse  
2       and neglect, including how the entity will coordinate  
3       with State and local child protective service and do-  
4       mestic violence programs.

5           ‘(4) ADDRESSING CONCERNS RELATING TO  
6       SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-  
7       mitment to make available to each individual partici-  
8       pating in the project education about alcohol, to-  
9       bacco, and other drugs, and about the health risks  
10      associated with abusing such substances, and infor-  
11      mation about diseases and conditions transmitted  
12      through substance abuse and sexual contact, includ-  
13      ing HIV/AIDS, and to coordinate with providers of  
14      services addressing such problems, as appropriate.

15          ‘(5) COORDINATION WITH SPECIFIED PRO-  
16      GRAMS.—An undertaking to coordinate, as appro-  
17      priate, with State and local entities responsible for  
18      the programs funded under parts A, B, and D of  
19      this title, programs under title I of the Workforce  
20      Investment Act of 1998 (including the One-Stop de-  
21      livery system), and such other programs as the Sec-  
22      retary may require.

23          ‘(6) RECORDS, REPORTS, AND AUDITS.—An  
24      agreement to maintain such records, make such re-  
25      ports, and cooperate with such reviews or audits (in

1 addition to those required under the preceding provi-  
2 sions of paragraph (2)) as the Secretary may find  
3 necessary for purposes of oversight of project activi-  
4 ties and expenditures.

5 ‘(d) FEDERAL SHARE.—

6 ‘(1) IN GENERAL.—Grants for a project under  
7 this section for a fiscal year shall be available for up  
8 to 80 percent of the cost of such project in such fis-  
9 cal year.

10 ‘(2) NON-FEDERAL SHARE.—The non-Federal  
11 share may be in cash or in kind. In determining the  
12 amount of the non-Federal share, the Secretary may  
13 attribute fair market value to goods, services, and  
14 facilities contributed from non-Federal sources.

15 **‘SEC. 446. EVALUATION.**

16 ‘(a) IN GENERAL.—The Secretary, directly or by con-  
17 tract or cooperative agreement, shall evaluate the effec-  
18 tiveness of service projects funded under sections 443 and  
19 444 from the standpoint of the purposes specified in sec-  
20 tion 441(b)(1).

21 ‘(b) EVALUATION METHODOLOGY.—Evaluations  
22 under this section shall—

23 ‘(1) include, to the maximum extent feasible,  
24 random assignment of clients to service delivery and  
25 control groups and other appropriate comparisons of

1 groups of individuals receiving and not receiving  
2 services;

3 ‘(2) describe and measure the effectiveness of  
4 the projects in achieving their specific project goals;  
5 and

6 ‘(3) describe and assess, as appropriate, the im-  
7 pact of such projects on marriage, parenting, domes-  
8 tic violence, child abuse and neglect, money manage-  
9 ment, employment and earnings, payment of child  
10 support, and child well-being, health, and education.

11 ‘(c) EVALUATION REPORTS.—The Secretary shall  
12 publish the following reports on the results of the evalua-  
13 tion:

14 ‘(1) An implementation evaluation report cov-  
15 ering the first 24 months of the activities under this  
16 part to be completed by 36 months after initiation  
17 of such activities.

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

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

21 ‘The Secretary is authorized, by grant, contract, or  
22 cooperative agreement, to carry out projects and activities  
23 of national significance relating to fatherhood promotion,  
24 including—

1           ‘(1) COLLECTION AND DISSEMINATION OF IN-  
2           FORMATION.—Assisting States, communities, and  
3           private entities, including religious organizations, in  
4           efforts to promote and support marriage and respon-  
5           sible fatherhood by collecting, evaluating, developing,  
6           and making available (through the Internet and by  
7           other means) to all interested parties information re-  
8           garding approaches to accomplishing the objectives  
9           specified in section 441(b)(1).

10           ‘(2) MEDIA CAMPAIGN.—Developing, promoting,  
11           and distributing to interested States, local govern-  
12           ments, public agencies, and private nonprofit organi-  
13           zations, including charitable and religious organiza-  
14           tions, a media campaign that promotes and encour-  
15           ages involved, committed, and responsible fatherhood  
16           and married fatherhood.

17           ‘(3) TECHNICAL ASSISTANCE.—Providing tech-  
18           nical assistance, including consultation and training,  
19           to public and private entities, including community  
20           organizations and faith-based organizations, in the  
21           implementation of local fatherhood promotion pro-  
22           grams.

23           ‘(4) RESEARCH.—Conducting research related  
24           to the purposes of this part.

1 **‘SEC. 448. NONDISCRIMINATION.**

2       ‘The projects and activities assisted under this part  
3 shall be available on the same basis to all fathers and ex-  
4 pectant fathers able to benefit from such projects and ac-  
5 tivities, including married and unmarried fathers and cus-  
6 todial and noncustodial fathers, with particular attention  
7 to low-income fathers, and to mothers and expectant  
8 mothers on the same basis as to fathers.

9 **‘SEC. 449. AUTHORIZATION OF APPROPRIATIONS; RES-**  
10 **ERVATION FOR CERTAIN PURPOSE.**

11       ‘(a) AUTHORIZATION.—There are authorized to be  
12 appropriated \$20,000,000 for each of fiscal years 2006  
13 through 2010 to carry out the provisions of this part.

14       ‘(b) RESERVATION.—Of the amount appropriated  
15 under this section for each fiscal year, not more than 35  
16 percent shall be available for the costs of the multicounty,  
17 multicounty, multistate demonstration projects under sec-  
18 tion 444, the economic incentives demonstration projects  
19 under section 445, evaluations under section 446, and  
20 projects of national significance under section 447, with  
21 not less than \$5,000,000 allocated to the economic incen-  
22 tives demonstration project under section 445.’.

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

1           (2) CLERICAL AMENDMENT.—Section 2 of such  
2       Act is amended in the table of contents by inserting  
3       after the item relating to section 116 the following  
4       new item:

“Sec. 117. Fatherhood program.”.

5       **SEC. 2016. STATE OPTION TO MAKE TANF PROGRAMS MAN-**  
6                           **DATORY PARTNERS WITH ONE-STOP EMPLOY-**  
7                           **MENT TRAINING CENTERS.**

8       Section 408 (42 U.S.C. 608) is amended by adding  
9       at the end the following:

10       “(h) STATE OPTION TO MAKE TANF PROGRAMS  
11       MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT  
12       TRAINING CENTERS.—For purposes of section 121(b) of  
13       the Workforce Investment Act of 1998, a State program  
14       funded under part A of title IV of the Social Security Act  
15       shall be considered a program referred to in paragraph  
16       (1)(B) of such section, unless, after the date of the enact-  
17       ment of this subsection, the Governor of the State notifies  
18       the Secretaries of Health and Human Services and Labor  
19       in writing of the decision of the Governor not to make  
20       the State program a mandatory partner.”.

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

22       It is the sense of the Congress that a State welfare-  
23       to-work program should include a mentoring program.

1 **SEC. 2018. PROHIBITION ON OFFSHORING.**

2 Section 408(a) (42 U.S.C. 608(a)) is amended by  
3 adding at the end the following:

4 “(12) PROHIBITION ON OFFSHORING.—A State  
5 to which a grant is made under section 403 shall not  
6 use any part of the grant—

7 “(A) to enter into a contract with an entity  
8 that, directly or through a subcontractor, pro-  
9 vides any service, activity or function described  
10 under this part at a location outside the United  
11 States; or

12 “(B) to reduce employment in the United  
13 States through use of 1 or more employees out-  
14 side the United States.”.

15 **PART 3—CHILD CARE**

16 **SEC. 2021. SHORT TITLE.**

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

19 **SEC. 2022. GOALS.**

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

23 (1) in paragraph (3) by striking “encourage”  
24 and inserting “assist”,

25 (2) by amending paragraph (4) to read as fol-  
26 lows:

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

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

5           (4) by inserting after paragraph (4) the fol-  
6 lowing:

7           “(5) to encourage States to improve the quality  
8 of child care available to families;

9           “(6) to promote school readiness by encour-  
10 aging the exposure of young children in child care to  
11 nurturing environments and developmentally-appro-  
12 priate activities, including activities to foster early  
13 cognitive and literacy development; and”.

14       (b)       CONFORMING       AMENDMENT.—Section  
15 658E(c)(3)(B) of the Child Care and Development Block  
16 Grant Act of 1990 (42 U.S.C. 9858c(c)(3)(B)) is amended  
17 by striking “through (5)” and inserting “through (7)”.

18 **SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.**

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

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

22           (2) by striking “\$1,000,000,000 for each of the  
23 fiscal years 1996 through 2002” and inserting  
24 “\$2,300,000,000 for fiscal year 2006,  
25 \$2,500,000,000 for fiscal year 2007,

1       \$2,700,000,000     for     fiscal     year     2008,  
2       \$2,900,000,000     for     fiscal     year     2009,     and  
3       \$3,100,000,000 for fiscal year 2010”.

4 **SEC. 2024. APPLICATION AND PLAN.**

5       Section 658E(c)(2) of the Child Care and Develop-  
6 ment Block Grant Act of 1990 (42 U.S.C. 9858C(c)(2))  
7 is amended—

8             (1) by amending subparagraph (D) to read as  
9 follows:

10                     “(D) CONSUMER AND CHILD CARE PRO-  
11 VIDER EDUCATION INFORMATION.—

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

19                                     “(I) the promotion of informed  
20 child care choices, including informa-  
21 tion about the quality and availability  
22 of child care services;

23                                     “(II) research and best practices  
24 on children’s development, including  
25 early cognitive development;

1           “(III) the availability of assist-  
2           ance to obtain child care services; and  
3           “(IV) other programs for which  
4           families that receive child care serv-  
5           ices for which financial assistance is  
6           provided under this subchapter may  
7           be eligible, including the food stamp  
8           program, the WIC program under sec-  
9           tion 17 of the Child Nutrition Act of  
10          1966, the child and adult care food  
11          program under section 17 of the Rich-  
12          ard B. Russell National School Lunch  
13          Act, Head Start programs, Early  
14          Head Start programs, services and ac-  
15          tivities under section 619 and part C  
16          of the Individuals with Disabilities  
17          Education Act, and the medicaid and  
18          SCHIP programs under titles XIX  
19          and XXI of the Social Security Act.  
20          “(ii)        INFORMATION.—Information  
21          provided to parents shall be in plain lan-  
22          guage and, to the extent practicable, be in  
23          a language that such parents can under-  
24          stand.”, and

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

3                   “(I) COORDINATION WITH OTHER EARLY  
4           CHILD CARE SERVICES AND EARLY CHILDHOOD  
5           EDUCATION PROGRAMS.—Demonstrate how the  
6           State is coordinating child care services pro-  
7           vided under this subchapter with Head Start  
8           programs, Early Head Start programs, Early  
9           Reading First, Even Start, Ready-To-Learn  
10          Television, services and activities under section  
11          619 and part C of the Individuals with Disabil-  
12          ities Education Act, State pre-kindergarten pro-  
13          grams, and other early childhood education pro-  
14          grams to expand accessibility to and continuity  
15          of care and early education consistent with the  
16          goals of this Act, without displacing services  
17          provided by the current early care and edu-  
18          cation delivery system.

19                   “(J) PUBLIC-PRIVATE PARTNERSHIPS.—  
20          Demonstrate how the State encourages partner-  
21          ships with private and other public entities to  
22          leverage existing service delivery systems of  
23          early childhood education and increase the sup-  
24          ply and quality of child care services.

25                   “(K) CHILD CARE SERVICE QUALITY.—

1           “(i) CERTIFICATION.—For each fiscal  
2 year after fiscal year 2006, certify that  
3 during the then preceding fiscal year the  
4 State was in compliance with section 658G  
5 and describe how funds were used to com-  
6 ply with such section during such pre-  
7 ceding fiscal year.

8           “(ii) STRATEGY.—For each fiscal year  
9 after fiscal year 2006, contain an outline  
10 of the strategy the State will implement  
11 during such fiscal year for which the State  
12 plan is submitted, to address the quality of  
13 child care services in the State available  
14 from eligible child care providers, and in-  
15 clude in such strategy—

16           “(I) a statement specifying how  
17 the State will address the activities  
18 described in paragraphs (1), (2), and  
19 (3) of section 658G;

20           “(II) a description of measures  
21 for evaluating the quality improve-  
22 ments generated by the activities list-  
23 ed in each of such paragraphs that  
24 the State will use to evaluate its

1 progress in improving the quality of  
2 such child care services;

3 “(III) a list of State-developed  
4 child care service quality targets for  
5 such fiscal year quantified on the  
6 basis of such measures; and

7 “(IV) for each fiscal year after  
8 fiscal year 2006, a report on the  
9 progress made to achieve such targets  
10 during the then preceding fiscal year.

11 “(iii) RULE OF CONSTRUCTION.—  
12 Nothing in this subparagraph shall be con-  
13 strued to require that the State apply  
14 measures for evaluating quality to specific  
15 types of child care providers.

16 “(L) ACCESS TO CARE FOR CERTAIN POPU-  
17 LATIONS.—Demonstrate how the State is ad-  
18 dressing the child care needs of parents eligible  
19 for child care services for which financial assist-  
20 ance is provided under this subchapter who  
21 have children with special needs, are limited  
22 English proficient, work nontraditional hours,  
23 or require child care services for infants or tod-  
24 dlers.”.

1 **SEC. 2025. ACTIVITIES TO IMPROVE THE QUALITY OF**  
2 **CHILD CARE.**

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

6 **“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF**  
7 **CHILD CARE SERVICES.**

8 “A State that receives funds to carry out this sub-  
9 chapter for a fiscal year, shall use not less than 6 percent  
10 of the amount of such funds for activities provided  
11 through resource and referral services and other means,  
12 that are designed to improve the quality of child care serv-  
13 ices in the State available from eligible child care pro-  
14 viders. Such activities include—

15 “(1) programs that provide training, education,  
16 and other professional development activities to en-  
17 hance the skills of the child care workforce, includ-  
18 ing training opportunities for caregivers in informal  
19 care settings;

20 “(2) activities within child care settings to en-  
21 hance early learning for young children, to promote  
22 early literacy, and to foster school readiness;

23 “(3) initiatives to increase the retention and  
24 compensation of child care providers, including  
25 tiered reimbursement rates for providers that meet  
26 quality standards as defined by the State; or

1           “(4) other activities deemed by the State to im-  
2           prove the quality of child care services provided in  
3           such State.”.

4 **SEC. 2026. REPORTS AND AUDITS.**

5           Section 658K(a)(1)(B)(iii) of the Child Care and De-  
6           velopment Block Grant Act of 1990 (42 U.S.C.  
7           9858i(a)(1)(B)(iii)) is amended by inserting “ethnicity,  
8           primary language,” after “race,”.

9 **SEC. 2027. REPORT BY SECRETARY.**

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

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

14          “(a) REPORT REQUIRED.—Not later than October 1,  
15          2007, and biennially thereafter, the Secretary shall pre-  
16          pare and submit to the Committee on Education and the  
17          Workforce of the House of Representatives and the Com-  
18          mittee on Health, Education, Labor and Pensions of the  
19          Senate a report that contains the following:

20                 “(1) A summary and analysis of the data and  
21                 information provided to the Secretary in the State  
22                 reports submitted under section 658K.

23                 “(2) Aggregated statistics on the supply of, de-  
24                 mand for, and quality of child care, early education,  
25                 and non-school-hours programs.

1           “(3) An assessment, and where appropriate,  
2           recommendations for the Congress concerning ef-  
3           forts that should be undertaken to improve the ac-  
4           cess of the public to quality and affordable child care  
5           in the United States.

6           “(b) COLLECTION OF INFORMATION.—The Secretary  
7           may utilize the national child care data system available  
8           through resource and referral organizations at the local,  
9           State, and national level to collect the information re-  
10          quired by subsection (a)(2).”.

11       **SEC. 2028. DEFINITIONS.**

12          (a) ELIGIBLE CHILDREN.—Section 658P(4)(B) of  
13          the Child Care and Development Block Grant Act of 1990  
14          (42 U.S.C. 9858N(4)(B)) is amended by striking “85 per-  
15          cent of the State median income” and inserting “income  
16          levels as established by the State, prioritized by need,”.

17          (b) LIMITED ENGLISH PROFICIENT.—Section 658P  
18          of the Child Care and Development Block Grant Act of  
19          1990 (42 U.S.C. 9858n) is amended—

20               (1) by redesignating paragraph (9) as para-  
21               graph (10); and

22               (2) by inserting after paragraph (8) the fol-  
23               lowing:

1           “(9) LIMITED ENGLISH PROFICIENT.—The  
2 term ‘limited English proficient’ means with respect  
3 to an individual, that such individual—

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

6           “(ii)(I) is a Native American, an Alaska  
7 Native, or a native resident of a territory or  
8 possession of the United States; and

9           “(II) comes from an environment in which  
10 a language that is not English has had a sig-  
11 nificant impact on such individual’s level of  
12 English language proficiency; or

13           “(iii) is migratory, has a native language  
14 that is not English, and comes from an environ-  
15 ment in which a language that is not English  
16 is dominant; and

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

20           “(i) the ability to successfully achieve  
21 in classrooms in which the language of in-  
22 struction is English; or

23           “(ii) the opportunity to fully partici-  
24 pate in society.”.

1 **SEC. 2029. WAIVER AUTHORITY TO EXPAND THE AVAIL-**  
2 **ABILITY OF SERVICES UNDER CHILD CARE**  
3 **AND DEVELOPMENT BLOCK GRANT ACT OF**  
4 **1990.**

5 (a) WAIVER AUTHORITY.—For such period up to  
6 June 30, 2006, and to such extent as the Secretary con-  
7 siders to be appropriate, the Secretary of Health and  
8 Human Service may waive or modify, for any affected  
9 State, and any State serving significant numbers of indi-  
10 viduals adversely affected by a Gulf hurricane disaster,  
11 provisions of the Child Care and Development Block  
12 Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

13 (1) relating to Federal income limitations on  
14 eligibility to receive child care services for which as-  
15 sistance is provided under such Act,

16 (2) relating to work requirements applicable to  
17 eligibility to receive child care services for which as-  
18 sistance is provided under such Act,

19 (3) relating to limitations on the use of funds  
20 under section 658G of the Child Care and Develop-  
21 ment Block Grant Act of 1990, and

22 (4) preventing children designated as evacuees  
23 from receiving priority for child care services pro-  
24 vided under such Act, except that children residing  
25 in a State and currently receiving services should

1 not lose such services in order to accommodate evac-  
2 uee children,  
3 for purposes of easing State fiscal burdens and providing  
4 child care services to children orphaned, or of families dis-  
5 placed, as a result of a Gulf hurricane disaster.

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

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

10 (2) GULF HURRICANE DISASTER.—The term  
11 “Gulf hurricane disaster” means a major disaster  
12 that the President declared to exist, in accordance  
13 with section 401 of the Robert T. Stafford Disaster  
14 Relief and Emergency Assistance Act, and that was  
15 caused by Hurricane Katrina or Hurricane Rita.

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

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

2   **SEC. 2041. PROGRAM COORDINATION DEMONSTRATION**  
3           **PROJECTS.**

4           (a) **PURPOSE.**—The purpose of this section is to es-  
5   tablish a program of demonstration projects in a State or  
6   portion of a State to coordinate multiple public assistance,  
7   workforce development, and other programs, for the pur-  
8   pose of supporting working individuals and families, help-  
9   ing families escape welfare dependency, promoting child  
10  well-being, or helping build stronger families, using inno-  
11  vative approaches to strengthen service systems and pro-  
12  vide more coordinated and effective service delivery.

13          (b) **DEFINITIONS.**—In this section:

14               (1) **ADMINISTERING SECRETARY.**—The term  
15               “administering Secretary” means, with respect to a  
16               qualified program, the head of the Federal agency  
17               responsible for administering the program.

18               (2) **QUALIFIED PROGRAM.**—The term “qualified  
19               program” means—

20                       (A) activities funded under title I of the  
21                       Workforce Investment Act of 1998, except sub-  
22                       title C of such title;

23                       (B) a demonstration project authorized  
24                       under section 505 of the Family Support Act of  
25                       1988;

1           (C) activities funded under the Wagner-  
2           Peysner Act;

3           (D) activities funded under the Adult Edu-  
4           cation and Family Literacy Act; or

5           (E) activities funded under the Child Care  
6           and Development Block Grant Act of 1990;

7           (c) APPLICATION REQUIREMENTS.—The head of a  
8           State entity or of a sub-State entity administering 2 or  
9           more qualified programs proposed to be included in a dem-  
10          onstration project under this section shall (or, if the  
11          project is proposed to include qualified programs adminis-  
12          tered by 2 or more such entities, the heads of the admin-  
13          istering entities (each of whom shall be considered an ap-  
14          plicant for purposes of this section) shall jointly) submit  
15          to the administering Secretary of each such program an  
16          application that contains the following:

17           (1) PROGRAMS INCLUDED.—A statement identi-  
18           fying each qualified program to be included in the  
19           project, and describing how the purposes of each  
20           such program will be achieved by the project.

21           (2) POPULATION SERVED.—A statement identi-  
22           fying the population to be served by the project and  
23           specifying the eligibility criteria to be used.

24           (3) DESCRIPTION AND JUSTIFICATION.—A de-  
25           tailed description of the project, including—

1 (A) a description of how the project is ex-  
2 pected to improve or enhance achievement of  
3 the purposes of the programs to be included in  
4 the project, from the standpoint of quality, of  
5 cost-effectiveness, or of both; and

6 (B) a description of the performance objec-  
7 tives for the project, including any proposed  
8 modifications to the performance measures and  
9 reporting requirements used in the programs.

10 (4) WAIVERS REQUESTED.—A description of  
11 the statutory and regulatory requirements with re-  
12 spect to which a waiver is requested in order to  
13 carry out the project, and a justification of the need  
14 for each such waiver.

15 (5) COST NEUTRALITY.—Such information and  
16 assurances as necessary to establish to the satisfac-  
17 tion of the administering Secretary, in consultation  
18 with the Director of the Office of Management and  
19 Budget, that the proposed project is reasonably ex-  
20 pected to meet the applicable cost neutrality require-  
21 ments of subsection (d)(4).

22 (6) EVALUATION AND REPORTS.—An assurance  
23 that the applicant will conduct ongoing and final  
24 evaluations of the project, and make interim and  
25 final reports to the administering Secretary, at such

1 times and in such manner as the administering Sec-  
2 retary may require.

3 (7) OTHER INFORMATION AND ASSURANCES.—

4 Such other information and assurances as the ad-  
5 ministering Secretary may require.

6 (d) APPROVAL OF APPLICATIONS.—

7 (1) IN GENERAL.—The administering Secretary  
8 with respect to a qualified program that is identified  
9 in an application submitted pursuant to subsection  
10 (c) may approve the application and, except as pro-  
11 vided in paragraph (2), waive any requirement appli-  
12 cable to the program, to the extent consistent with  
13 this section and necessary and appropriate for the  
14 conduct of the demonstration project proposed in the  
15 application, if the administering Secretary deter-  
16 mines that the project—

17 (A) has a reasonable likelihood of achieving  
18 the objectives of the programs to be included in  
19 the project;

20 (B) may reasonably be expected to meet  
21 the applicable cost neutrality requirements of  
22 paragraph (4), as determined by the Director of  
23 the Office of Management and Budget; and

24 (C) includes the coordination of 2 or more  
25 qualified programs.

1           (2) PROVISIONS EXCLUDED FROM WAIVER AU-  
2           THORITY.—A waiver shall not be granted under  
3           paragraph (1)—

4                   (A) with respect to any provision of law re-  
5           lating to—

6                           (i) civil rights or prohibition of dis-  
7                           crimination;

8                           (ii) purposes or goals of any program;

9                           (iii) maintenance of effort require-  
10                           ments;

11                           (iv) health or safety;

12                           (v) labor standards under the Fair  
13                           Labor Standards Act of 1938; or

14                           (vi) environmental protection;

15                   (B) with respect to section 241(a) of the  
16           Adult Education and Family Literacy Act;

17                   (C) in the case of a program under the  
18           Workforce Investment Act, with respect to any  
19           requirement the waiver of which would violate  
20           section 189(i)(4)(A)(i) of such Act;

21                   (D) with respect to any requirement that a  
22           State pass through to a sub-State entity part or  
23           all of an amount paid to the State;

24                   (E) if the waiver would waive any funding  
25           restriction or limitation provided in an appro-

1           priations Act, or would have the effect of trans-  
2           ferring appropriated funds from 1 appropria-  
3           tions account to another; or

4           (F) except as otherwise provided by stat-  
5           ute, if the waiver would waive any funding re-  
6           striction applicable to a program authorized  
7           under an Act which is not an appropriations  
8           Act (but not including program requirements  
9           such as application procedures, performance  
10          standards, reporting requirements, or eligibility  
11          standards), or would have the effect of transfer-  
12          ring funds from a program for which there is  
13          direct spending (as defined in section 250(c)(8)  
14          of the Balanced Budget and Emergency Deficit  
15          Control Act of 1985) to another program.

16          (3) AGREEMENT OF EACH ADMINISTERING SEC-  
17          RETARY REQUIRED.—

18           (A) IN GENERAL.—An applicant may not  
19           conduct a demonstration project under this sec-  
20           tion unless each administering Secretary with  
21           respect to any program proposed to be included  
22           in the project has approved the application to  
23           conduct the project.

24           (B) AGREEMENT WITH RESPECT TO FUND-  
25           ING AND IMPLEMENTATION.—Before approving

1 an application to conduct a demonstration  
2 project under this section, an administering  
3 Secretary shall have in place an agreement with  
4 the applicant with respect to the payment of  
5 funds and responsibilities required of the ad-  
6 ministering Secretary with respect to the  
7 project.

8 (4) COST-NEUTRALITY REQUIREMENT.—

9 (A) GENERAL RULE.—Notwithstanding  
10 any other provision of law (except subparagraph  
11 (B)), the total of the amounts that may be paid  
12 by the Federal Government for a fiscal year  
13 with respect to the programs in the State in  
14 which an entity conducting a demonstration  
15 project under this section is located that are af-  
16 fected by the project shall not exceed the esti-  
17 mated total amount that the Federal Govern-  
18 ment would have paid for the fiscal year with  
19 respect to the programs if the project had not  
20 been conducted, as determined by the Director  
21 of the Office of Management and Budget.

22 (B) SPECIAL RULE.—If an applicant sub-  
23 mits to the Director of the Office of Manage-  
24 ment and Budget a request to apply the rules  
25 of this subparagraph to the programs in the

1 State in which the applicant is located that are  
2 affected by a demonstration project proposed in  
3 an application submitted by the applicant pur-  
4 suant to this section, during such period of not  
5 more than 5 consecutive fiscal years in which  
6 the project is in effect, and the Director deter-  
7 mines, on the basis of supporting information  
8 provided by the applicant, to grant the request,  
9 then, notwithstanding any other provision of  
10 law, the total of the amounts that may be paid  
11 by the Federal Government for the period with  
12 respect to the programs shall not exceed the es-  
13 timated total amount that the Federal Govern-  
14 ment would have paid for the period with re-  
15 spect to the programs if the project had not  
16 been conducted.

17 (5) 90-DAY APPROVAL DEADLINE.—

18 (A) IN GENERAL.—If an administering  
19 Secretary receives an application to conduct a  
20 demonstration project under this section and  
21 does not disapprove the application within 90  
22 days after the receipt, then—

23 (i) the administering Secretary is  
24 deemed to have approved the application  
25 for such period as is requested in the ap-

1 plication, except to the extent inconsistent  
2 with subsection (e); and

3 (ii) any waiver requested in the appli-  
4 cation which applies to a qualified program  
5 that is identified in the application and is  
6 administered by the administering Sec-  
7 retary is deemed to be granted, except to  
8 the extent inconsistent with paragraph (2)  
9 or (4) of this subsection.

10 (B) DEADLINE EXTENDED IF ADDITIONAL  
11 INFORMATION IS SOUGHT.—The 90-day period  
12 referred to in subparagraph (A) shall not in-  
13 clude any period that begins with the date the  
14 Secretary requests the applicant to provide ad-  
15 ditional information with respect to the applica-  
16 tion and ends with the date the additional in-  
17 formation is provided.

18 (e) DURATION OF PROJECTS.—A demonstration  
19 project under this section may be approved for a term of  
20 not more than 5 years.

21 (f) REPORTS TO CONGRESS.—

22 (1) REPORT ON DISPOSITION OF APPLICA-  
23 TIONS.—Within 90 days after an administering Sec-  
24 retary receives an application submitted pursuant to  
25 this section, the administering Secretary shall sub-

1 mit to each Committee of the Congress which has  
2 jurisdiction over a qualified program identified in  
3 the application notice of the receipt, a description of  
4 the decision of the administering Secretary with re-  
5 spect to the application, and the reasons for approv-  
6 ing or disapproving the application.

7 (2) REPORTS ON PROJECTS.—Each admin-  
8 istering Secretary shall provide annually to the Con-  
9 gress a report concerning demonstration projects ap-  
10 proved under this section, including—

11 (A) the projects approved for each appli-  
12 cant;

13 (B) the number of waivers granted under  
14 this section, and the specific statutory provi-  
15 sions waived;

16 (C) how well each project for which a waiv-  
17 er is granted is improving or enhancing pro-  
18 gram achievement from the standpoint of qual-  
19 ity, cost-effectiveness, or both;

20 (D) how well each project for which a  
21 waiver is granted is meeting the performance  
22 objectives specified in subsection (c)(3)(B);

23 (E) how each project for which a waiver is  
24 granted is conforming with the cost-neutrality  
25 requirements of subsection (d)(4); and

1 (F) to the extent the administering Sec-  
2 retary deems appropriate, recommendations for  
3 modification of programs based on outcomes of  
4 the projects.

5 **PART 5—EFFECTIVE DATE**

6 **SEC. 2051. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as otherwise provided in  
8 this subtitle, this subtitle and the amendments made by  
9 this subtitle shall take effect on the date of the enactment  
10 of this Act.

11 (b) EXCEPTION.—In the case of a State plan under  
12 part A of title IV of the Social Security Act which the  
13 Secretary determines requires State legislation in order  
14 for the plan to meet the additional requirements imposed  
15 by the amendments made by this subtitle, the effective  
16 date of the amendments imposing the additional require-  
17 ments shall be 3 months after the first day of the first  
18 calendar quarter beginning after the close of the first reg-  
19 ular session of the State legislature that begins after the  
20 date of the enactment of this Act. For purposes of the  
21 preceding sentence, in the case of a State that has a 2-  
22 year legislative session, each year of the session shall be  
23 considered to be a separate regular session of the State  
24 legislature.

1       **Subtitle B—Higher Education**

2       **SEC. 2101. SHORT TITLE.**

3           This subtitle may be cited as the “Higher Education  
4 Budget Reconciliation Act of 2005”.

5           **PART 1—AMENDMENTS TO THE HIGHER**  
6                           **EDUCATION ACT OF 1965**

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

8           (a) REFERENCES.—Except as otherwise expressly  
9 provided, whenever in this part an amendment or repeal  
10 is expressed in terms of an amendment to, or repeal of,  
11 a section or other provision, the reference shall be consid-  
12 ered to be made to a section or other provision of the  
13 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

14           (b) EFFECTIVE DATE.—Except as otherwise provided  
15 in this part, the amendments made by this part shall be  
16 effective on the date of enactment of this Act.

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

18           Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amend-  
19 ed—

20                   (1) in subparagraph (A), by inserting “(exclud-  
21 ing courses offered by telecommunications as defined  
22 in section 484(l)(4))” after “courses by correspond-  
23 ence”; and

24                   (2) in subparagraph (B), by inserting “(exclud-  
25 ing courses offered by telecommunications as defined

1 in section 484(l)(4))” after “correspondence  
2 courses”.

3 **SEC. 2113. REAUTHORIZATION OF FEDERAL FAMILY EDU-**  
4 **CATION LOAN PROGRAM.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
6 421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking  
7 “an administrative cost allowance” and inserting “a loan  
8 processing and issuance fee”.

9 (b) EXTENSION OF AUTHORITY.—

10 (1) FEDERAL INSURANCE LIMITATIONS.—Sec-  
11 tion 424(a) (20 U.S.C. 1074(a)) is amended—

12 (A) by striking “2004” and inserting  
13 “2012”; and

14 (B) by striking “2008” and inserting  
15 “2016”.

16 (2) GUARANTEED LOANS.—Section 428(a)(5)  
17 (20 U.S.C. 1078(a)(5)) is amended—

18 (A) by striking “2004” and inserting  
19 “2012”; and

20 (B) by striking “2008” and inserting  
21 “2016”.

22 (3) CONSOLIDATION LOANS.—Section 428C(e)  
23 (20 U.S.C. 1078–3(e)) is amended by striking  
24 “2004” and inserting “2012”.

1 **SEC. 2114. LOAN LIMITS.**

2 (a) FEDERAL INSURANCE LIMITS.—Section  
3 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

4 (1) in clause (i)(I), by striking “\$2,625” and  
5 inserting “\$3,500”; and

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

8 (b) GUARANTEE LIMITS.—Section 428(b)(1)(A) (20  
9 U.S.C. 1078(b)(1)(A)) is amended—

10 (1) in clause (i)(I), by striking “\$2,625” and  
11 inserting “\$3,500”; and

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

14 (c) COUNTING OF CONSOLIDATION LOANS AGAINST  
15 LIMITS.—Section 428C(a)(3)(B) (20 U.S.C. 1078–  
16 3(a)(3)(B)) is amended by adding at the end the following  
17 new clause:

18 “(ii) Loans made under this section shall, to  
19 the extent used to pay off the outstanding principal  
20 balance on loans made under this title, excluding  
21 capitalized interest, be counted against the applica-  
22 ble limitations on aggregate indebtedness contained  
23 in sections 425(a)(2), 428(b)(1)(B), 428H(d), 455,  
24 and 464(a)(2)(B).”.

25 (d) EFFECTIVE DATE.—The amendments made by  
26 this section shall apply with respect to any loan made, in-

1 sured, or guaranteed under part B or part D of title IV  
2 of the Higher Education Act of 1965 for which the first  
3 disbursement of principal is made on or after July 1,  
4 2007.

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

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

8 (1) in subsection (k)—

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

11 (B) by striking “, and before July 1,  
12 2006,” each place it appears in paragraphs (1),  
13 (2), and (3);

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

15 (3) by redesignating subsections (m) and (n) as  
16 subsections (l) and (m), respectively.

17 (b) DIRECT LOAN INTEREST RATES.—Section  
18 455(b) (20 U.S.C. 1087e(b)) is amended—

19 (1) in paragraph (6)—

20 (A) by striking “, AND BEFORE JULY 1,  
21 2006” in the heading of such paragraph; and

22 (B) by striking “, and before July 1,  
23 2006,” each place it appears in subparagraphs  
24 (A), (B), and (C);

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

1           (3) by redesignating paragraphs (8) and (9) as  
2 paragraphs (7) and (8), respectively.

3           (c) CONSOLIDATION LOAN INTEREST RATES.—

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

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

8           (B) by redesignating paragraph (5) as  
9 paragraph (6); and

10           (C) by inserting after paragraph (4) the  
11 following:

12           “(5) CONSOLIDATION LOANS ON OR AFTER  
13 JULY 1, 2006.—

14           “(A) BORROWER ELECTION.—With respect  
15 to any consolidation loan under section 428C  
16 for which the application is received by an eligi-  
17 ble lender on or after July 1, 2006, the applica-  
18 ble rate of interest shall, at the election of the  
19 borrower at the time of application for the loan,  
20 be either at the rate determined under subpara-  
21 graph (B) or the rate determined under sub-  
22 paragraph (C).

23           “(B) VARIABLE RATE.—Except as pro-  
24 vided in subparagraph (D), the rate determined  
25 under this subparagraph shall, during any 12-

1 month period beginning on July 1 and ending  
2 on June 30, be determined on the preceding  
3 June 1 and, for such 12-month period, not be  
4 more than—

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

8 “(ii) 2.3 percent,  
9 except that such rate shall not exceed 8.25 per-  
10 cent.

11 “(C) FIXED RATE.—Except as provided in  
12 subparagraph (D), the rate determined under  
13 this subparagraph shall be determined for the  
14 duration of the term of the loan on the July 1  
15 that is or precedes the date on which the appli-  
16 cation is received by an eligible lender, and  
17 shall be, for such duration, not more than—

18 “(i) the bond equivalent rate of 91-  
19 day Treasury bills auctioned at the final  
20 auction held prior to the June 1 imme-  
21 diately preceding such July 1; plus

22 “(ii) 3.3 percent,  
23 except that such rate shall not exceed 8.25 per-  
24 cent.

1           “(D) CONSOLIDATION OF PLUS LOANS.—  
2           In the case of any such consolidation loan that  
3           is used to repay loans each of which was made  
4           under section 428B or was a Federal Direct  
5           PLUS Loan (or both), the rates determined  
6           under clauses (B) and (C) shall be deter-  
7           mined—

8                   “(i) by substituting ‘3.1 percent’ for  
9                   ‘2.3 percent’;

10                   “(ii) by substituting ‘4.1 percent’ for  
11                   ‘3.3 percent’; and

12                   “(iii) by substituting ‘9.0 percent’ for  
13                   ‘8.25 percent’.”.

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

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

19                   (B) by redesignating subparagraph (E) as  
20                   subparagraph (F); and

21                   (C) by inserting after subparagraph (D)  
22                   the following:

23                   “(E) CONSOLIDATION LOANS ON OR AFTER  
24                   JULY 1, 2006.—

1                   “(i) BORROWER ELECTION.—Notwith-  
2                   standing the preceding paragraphs of this  
3                   subsection, with respect to any Federal Di-  
4                   rect Consolidation Loan for which the ap-  
5                   plication is received by the Secretary on or  
6                   after July 1, 2006, the applicable rate of  
7                   interest shall, at the election of the bor-  
8                   rower at the time of application for the  
9                   loan, be either at the rate determined  
10                  under clause (ii) or the rate determined  
11                  under clause (iii).

12                  “(ii) VARIABLE RATE.—Except as  
13                  provided in clause (iv), the rate determined  
14                  under this clause shall, during any 12-  
15                  month period beginning on July 1 and  
16                  ending on June 30, be determined on the  
17                  preceding June 1 and, for such 12-month  
18                  period, be equal to—

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

23                                 “(II) 2.3 percent,  
24                                 except that such rate shall not exceed 8.25  
25                                 percent.

1           “(iii) FIXED RATE.—Except as pro-  
2           vided in clause (iv), the rate determined  
3           under this clause shall be determined for  
4           the duration of the term of the loan on the  
5           July 1 that is or precedes the date on  
6           which the application is received by the  
7           Secretary, and shall be, for such duration,  
8           equal to—

9                   “(I) the bond equivalent rate of  
10                   91-day Treasury bills auctioned at the  
11                   final auction held prior to the June 1  
12                   immediately preceding such July 1;  
13                   plus

14                   “(II) 3.3 percent,  
15           except that such rate shall not exceed 8.25  
16           percent.

17           “(iv) CONSOLIDATION OF PLUS  
18           LOANS.—In the case of any such Federal  
19           Direct Consolidation Loan that is used to  
20           repay loans each of which was made under  
21           section 428B or was a Federal Direct  
22           PLUS Loan (or both), the rates deter-  
23           mined under clauses (ii) and (iii) shall be  
24           determined—

1                   “(I) by substituting ‘3.1 percent’  
2                   for ‘2.3 percent’;

3                   “(II) by substituting ‘4.1 per-  
4                   cent’ for ‘3.3 percent’; and

5                   “(III) by substituting ‘9.0 per-  
6                   cent’ for ‘8.25 percent’.”.

7           (d) CONSOLIDATION LOAN CONFORMING AMEND-  
8   MENT.—Section 428C(e)(1)(A)(ii) (20 U.S.C. 1078–  
9   3(c)(1)(A)(ii)) is amended by striking “section  
10 427A(l)(3)” and inserting “section 427A(k)(5)”.

11          (e) CONFORMING AMENDMENTS FOR SPECIAL AL-  
12   LOWANCES.—

13           (1) AMENDMENT.—Subparagraph (I) of section  
14   438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—

15                   (A) by striking clause (ii) and inserting the  
16                   following:

17                           “(ii) IN SCHOOL AND GRACE PE-  
18                           RIOD.—In the case of any loan for which  
19                           the first disbursement is made on or after  
20                           January 1, 2000, and for which the appli-  
21                           cable interest rate is described in section  
22                           427A(k)(2), clause (i)(III) of this subpara-  
23                           graph shall be applied by substituting  
24                           ‘1.74 percent’ for ‘2.34 percent’.”;

25                   (B) in clause (iii),

- 1 (i) by striking “or (l)(2)”; and  
2 (ii) by striking “, subject to clause (v)  
3 of this subparagraph”;  
4 (C) in clause (iv)—  
5 (i) by striking “or (l)(3)” and insert-  
6 ing “or (k)(5)”; and  
7 (ii) by striking “, subject to clause  
8 (vi) of this subparagraph”; and  
9 (D) by striking clauses (v), (vi), and (vii)  
10 and inserting the following:

11 “(v) RECAPTURE OF EXCESS INTER-  
12 EST.—

13 “(I) EXCESS CREDITED.—With  
14 respect to a loan on which the applica-  
15 ble interest rate is determined under  
16 section 427A(k) and for which the  
17 first disbursement of principal is  
18 made on or after July 1, 2006, if the  
19 applicable interest rate for any 3-  
20 month period exceeds the special al-  
21 lowance support level applicable to  
22 such loan under this subparagraph for  
23 such period, then an adjustment shall  
24 be made by calculating the excess in-  
25 terest in the amount computed under

1 subclause (II) of this clause, and by  
2 crediting the excess interest to the  
3 Government not less often than annu-  
4 ally.

5 “(II) CALCULATION OF EX-  
6 CESS.—The amount of any adjust-  
7 ment of interest on a loan to be made  
8 under this subsection for any quarter  
9 shall be equal to—

10 “(aa) the applicable interest  
11 rate minus the special allowance  
12 support level determined under  
13 this subparagraph; multiplied by

14 “(bb) the average daily prin-  
15 cipal balance of the loan (not in-  
16 cluding unearned interest added  
17 to principal) during such cal-  
18 endar quarter; divided by

19 “(cc) four.

20 “(III) SPECIAL ALLOWANCE SUP-  
21 PORT LEVEL.—For purposes of this  
22 clause, the term ‘special allowance  
23 support level’ means, for any loan, a  
24 number expressed as a percentage  
25 equal to the sum of the rates deter-

1           mined under subclauses (I) and (III)  
2           of clause (i), and applying any substi-  
3           tution rules applicable to such loan  
4           under clauses (ii), (iii), and (iv) in de-  
5           termining such sum.”.

6           (2) EFFECTIVE DATE.—The amendments made  
7           by this subsection shall not apply with respect to  
8           any special allowance payment made under section  
9           438 of the Higher Education Act of 1965 (20 U.S.C  
10          1087–1) before July 1, 2006.

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

12          (a) FEDERAL DEFAULT FEES.—

13           (1) IN GENERAL.—Subparagraph (H) of section  
14          428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to  
15          read as follows:

16                   “(H) provides—

17                           “(i) for loans for which the first dis-  
18                           bursement of principal is made before  
19                           July, 1, 2006, for the collection of a single  
20                           insurance premium equal to not more than  
21                           1.0 percent of the principal amount of the  
22                           loan, by deduction proportionately from  
23                           each installment payment of the proceeds  
24                           of the loan to the borrower, and ensures  
25                           that the proceeds of the premium will not

1 be used for incentive payments to lenders;  
2 or

3 “(ii) for loans for which the first dis-  
4 bursement of principal is made on or after  
5 July 1, 2006, for the collection and deposit  
6 into the Federal Student Loan Reserve  
7 Fund under section 422A of a Federal de-  
8 fault fee of 1.0 percent of the principal  
9 amount of such loan, which shall be de-  
10 ducted proportionately from each install-  
11 ment payment of the proceeds of the loan  
12 to the borrower prior to payment to the  
13 borrower, and ensures that the proceeds of  
14 the Federal default fee will not be used for  
15 incentive payments to lenders;”.

16 (2) UNSUBSIDIZED LOANS.—Section 428H(h)  
17 (20 U.S.C. 1078–8(h)) is amended by adding at the  
18 end the following new sentence: “Effective for loans  
19 for which the first disbursement of principal is made  
20 on or after July 1, 2006, in lieu of the insurance  
21 premium authorized under the preceding sentence,  
22 each State or nonprofit private institution or organi-  
23 zation having an agreement with the Secretary  
24 under section 428(b)(1) shall collect and deposit into  
25 the Federal Student Loan Reserve Fund under sec-

1       tion 422A a Federal default fee of 1.0 percent of the  
2       principal amount of the loan, obtained by deduction  
3       proportionately from each installment payment of  
4       the proceeds of the loan to the borrower. The Fed-  
5       eral default fee shall not be used for incentive pay-  
6       ments to lenders.”.

7               (3) VOLUNTARY FLEXIBLE AGREEMENTS.—Sec-  
8       tion 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amend-  
9       ed—

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

12               (B) by striking the period at the end of  
13       subparagraph (B) and inserting “; or”; and

14               (C) by adding at the end the following new  
15       subparagraph:

16               “(C) the Federal default fee required by  
17       section 428(b)(1)(H) and the second sentence  
18       of section 428H(h).”.

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

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

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

1 (c) REPAYMENT PLANS.—

2 (1) FFEL LOANS.—Section 428(b)(9)(A) (20  
3 U.S.C. 1078(b)(9)(A)) is amended—

4 (A) by inserting before the semicolon at  
5 the end of clause (ii) the following: “, and the  
6 Secretary may not restrict the proportions or  
7 ratios by which such payments may be grad-  
8 uated with the informed agreement of the bor-  
9 rower”;

10 (B) by striking “and” at the end of clause  
11 (iii);

12 (C) by redesignating clause (iv) as clause  
13 (v); and

14 (D) by inserting after clause (iii) the fol-  
15 lowing new clause:

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

23 (2) DIRECT LOANS.—Section 455(d)(1) (20  
24 U.S.C. 1087e(d)(1)) is amended—

1 (A) by redesignating subparagraph (D) as  
2 subparagraph (E); and

3 (B) by striking subparagraphs (A), (B),  
4 and (C) and inserting the following:

5 “(A) a standard repayment plan, con-  
6 sistent with subsection (a)(1) of this section  
7 and with section 428(b)(9)(A)(i);

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

10 “(C) an extended repayment plan, con-  
11 sistent with section 428(b)(9)(A)(v), except that  
12 the borrower shall annually repay a minimum  
13 amount determined by the Secretary in accord-  
14 ance with section 428(b)(1)(L);

15 “(D) a delayed repayment plan under  
16 which the borrower makes scheduled payments  
17 for not more than 2 years that are annually not  
18 less than the amount of interest due or \$600,  
19 whichever is greater, and then makes payments  
20 in accordance with subparagraph (A), (B), or  
21 (C); and”.

22 (d) ORIGINATION FEES.—

23 (1) FFEL PROGRAM.—Paragraph (2) of section  
24 438(c) (20 U.S.C. 1087–1(c)) is amended—

1 (A) by striking the designation and head-  
2 ing of such paragraph and inserting the fol-  
3 lowing:

4 “(2) AMOUNT OF ORIGINATION FEES.—

5 “(A) IN GENERAL.—”; and

6 (B) by adding at the end the following new  
7 subparagraph:

8 “(B) SUBSEQUENT REDUCTIONS.—Sub-  
9 paragraph (A) shall be applied to loans made  
10 under this part (other than loans made under  
11 sections 428C and 439(o))—

12 “(i) by substituting ‘2.0 percent’ for  
13 ‘3.0 percent’ with respect to loans for  
14 which the first disbursement of principal is  
15 made on or after July 1, 2006, and before  
16 July 1, 2007;

17 “(ii) by substituting ‘1.5 percent’ for  
18 ‘3.0 percent’ with respect to loans for  
19 which the first disbursement of principal is  
20 made on or after July 1, 2007, and before  
21 July 1, 2008;

22 “(iii) by substituting ‘1.0 percent’ for  
23 ‘3.0 percent’ with respect to loans for  
24 which the first disbursement of principal is

1 made on or after July 1, 2008, and before  
2 July 1, 2009;

3 “(iv) by substituting ‘0.5 percent’ for  
4 ‘3.0 percent’ with respect to loans for  
5 which the first disbursement of principal is  
6 made on or after July 1, 2009, and before  
7 July 1, 2010; and

8 “(v) by substituting ‘0.0 percent’ for  
9 ‘3.0 percent’ with respect to loans for  
10 which the first disbursement of principal is  
11 made on or after July 1, 2010.”.

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

15 “(c) LOAN FEE.—

16 “(1) IN GENERAL.—The Secretary shall charge  
17 the borrower of a loan made under this part an  
18 origination fee of 4.0 percent of the principal  
19 amount of loan.

20 “(2) SUBSEQUENT REDUCTION.—Paragraph  
21 (1) shall be applied to loans made under this part,  
22 other than Federal Direct Consolidation loans and  
23 Federal Direct PLUS loans—

24 “(A) by substituting ‘not more or less than  
25 3.0 percent’ for ‘4.0 percent’ with respect to

1 loans for which the first disbursement of prin-  
2 cipal is made on or after July 1, 2006, and be-  
3 fore July 1, 2007;

4 “(B) by substituting ‘not more or less than  
5 2.5 percent’ for ‘4.0 percent’ with respect to  
6 loans for which the first disbursement of prin-  
7 cipal is made on or after July 1, 2007, and be-  
8 fore July 1, 2008;

9 “(C) by substituting ‘not more or less than  
10 2.0 percent’ for ‘4.0 percent’ with respect to  
11 loans for which the first disbursement of prin-  
12 cipal is made on or after July 1, 2008, and be-  
13 fore July 1, 2009;

14 “(D) by substituting ‘not more or less than  
15 1.5 percent’ for ‘4.0 percent’ with respect to  
16 loans for which the first disbursement of prin-  
17 cipal is made on or after July 1, 2009, and be-  
18 fore July 1, 2010; and

19 “(E) by substituting ‘not more or less than  
20 1.0 percent’ for ‘4.0 percent’ with respect to  
21 loans for which the first disbursement of prin-  
22 cipal is made on or after July 1, 2010.

23 “(3) WAIVERS AND REPAYMENT INCENTIVES  
24 PROHIBITED.—Beginning with loans made on or  
25 after July 1, 2006, the Secretary is prohibited—

1           “(A) from waiving any amount of the loan  
2 fee prescribed under this section as part of a  
3 repayment incentive in section 455(b)(7); and

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

6 (e) CONSOLIDATION LOAN OFFSET CHARGE.—

7           (1) FFEL CONSOLIDATION LOANS.—Section  
8 438(c) (20 U.S.C. 1087–1(c)) is further amended—

9           (A) in paragraph (1)(A), by inserting after  
10 “paragraph (2) of this subsection” the fol-  
11 lowing: “and the amount the lender is author-  
12 ized to collect as a consolidation loan offset  
13 charge in accordance with paragraph (9) of this  
14 subsection”;

15           (B) in paragraph (1)(B)—

16           (i) by inserting “and the consolidation  
17 loan offset charge” after “origination fee”;  
18 and

19           (ii) by inserting “and consolidation  
20 loan offset charges” after “origination  
21 fees”;

22           (C) in paragraphs (3) and (4), by inserting  
23 “and consolidation loan offset charge” after  
24 “origination fee” each place it appears;

25           (D) in paragraph (5)—

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

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

5 (E) in paragraph (7)—

6 (i) by inserting “and consolidation  
7 loan offset charges” after “origination  
8 fees”; and

9 (ii) by striking “428A or”; and

10 (F) by adding at the end the following new  
11 paragraph:

12 “(9) CONSOLIDATION LOAN OFFSET CHARGE.—

13 For any loan under section 428C, the lender is au-  
14 thorized to collect a consolidation loan offset charge  
15 in an amount not to exceed 1.0 percent of the prin-  
16 cipal amount of the loan. Such amount may be  
17 added to the principal amount of the loan for repay-  
18 ment by the borrower.”.

19 (2) DIRECT LOANS.—Section 455(c) (20 U.S.C.  
20 1087e(c)), as amended by subsection (d)(2) of this  
21 section, is further amended by adding at the end the  
22 following new paragraph:

23 “(4) CONSOLIDATION LOAN OFFSET  
24 CHARGES.—For any Federal Direct Consolidation  
25 Loan, the Secretary shall collect a consolidation loan

1 offset charge in an amount not more or less than  
2 1.0 percent of the principal amount of the loan.  
3 Such amount may be added to the principal amount  
4 of the loan for repayment by the borrower. Such  
5 amount is not subject to the requirements of para-  
6 graph (3) of this subsection.”.

7 **SEC. 2117. CONSOLIDATION LOAN CHANGES.**

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

10 (1) in subsection (a)(3)(B)(i)—

11 (A) by inserting “or under section 455(g)”  
12 after “under this section” both places it ap-  
13 pears;

14 (B) by inserting “under both sections”  
15 after “terminates”

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

18 (D) by striking the period at the end of  
19 subclause (IV) and inserting “; and”; and

20 (E) by adding at the end the following new  
21 subclause:

22 “(V) an individual may obtain a subse-  
23 quent consolidation loan under section 455(g)  
24 only for the purposes of obtaining an income  
25 contingent repayment plan, and only if the loan

1           has been submitted to the guaranty agency for  
2           default aversion.”; and

3           (2) in subsection (b)(5), by striking the first  
4           sentence and inserting the following: “In the event  
5           that a lender with an agreement under subsection  
6           (a)(1) of this section denies a consolidation loan ap-  
7           plication submitted to it by an eligible borrower  
8           under this section, or denies an application sub-  
9           mitted to it by such a borrower for a consolidation  
10          loan with income-sensitive repayment terms, the Sec-  
11          retary shall offer any such borrower who applies for  
12          it, a Federal Direct Consolidation loan. The Sec-  
13          retary shall offer such a loan to a borrower who has  
14          defaulted, for the purpose of resolving the default.”.

15          (b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

16           (1) DEFINITION OF REPAYMENT PERIOD.—Sec-  
17          tion 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is  
18          amended by striking “shall begin—” and all that  
19          follows through “earlier date.” and inserting the fol-  
20          lowing: “shall begin the day after 6 months after the  
21          date the student ceases to carry at least one-half the  
22          normal full-time academic workload (as determined  
23          by the institution).”.

24           (2) CONFORMING CHANGE TO ELIGIBLE BOR-  
25          ROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I)

1 (20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by  
2 inserting “as determined under section  
3 428(b)(7)(A)” after “repayment status”.

4 (c) INTEREST PAYMENT REBATE FEE.—Section  
5 428C(f)(2) (20 U.S.C. 1078–2(f)(2)) is amended—

6 (1) by striking “SPECIAL RULE.—” and insert-  
7 ing “SPECIAL RULES.—(A)”; and

8 (2) by adding at the end the following new sub-  
9 paragraph:

10 “(B) For consolidation loans based on applica-  
11 tions received on or after July 1, 2006, if 90 percent  
12 or more of the total principal and accrued unpaid in-  
13 terest outstanding on the loans held, directly or indi-  
14 rectly, by any holder is comprised of principal and  
15 accrued unpaid interest owed on consolidation loans,  
16 the rebate described in paragraph (1) for such hold-  
17 er shall be equal to 1.30 percent of the principal  
18 plus accrued unpaid interest on such loans.”.

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

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

23 (2) in subsection (b)(1)—

24 (A) by striking everything after “under  
25 this section” the first place it appears in sub-

1 paragraph (A) and inserting the following: “and  
2 that, if all the borrower’s loans under this part  
3 are held by a single holder, the borrower has  
4 notified such holder that the borrower is seek-  
5 ing to obtain a consolidation loan under this  
6 section;”;

7 (B) by striking “(i) which” and all that  
8 follows through “and (ii)” in subparagraph (C);

9 (C) by striking “and” at the end of sub-  
10 paragraph (E);

11 (D) by redesignating subparagraph (F) as  
12 subparagraph (G); and

13 (E) by inserting after subparagraph (E)  
14 the following new subparagraph:

15 “(F) that the lender of the consolidation  
16 loan shall, upon application for such loan, pro-  
17 vide the borrower with a clear and conspicuous  
18 notice of at least the following information:

19 “(i) the effects of consolidation on  
20 total interest to be paid, fees to be paid,  
21 and length of repayment;

22 “(ii) the effects of consolidation on a  
23 borrower’s underlying loan benefits, includ-  
24 ing loan forgiveness, cancellation,

1           deferment, and reduced interest rates on  
2           those underlying loans;

3           “(iii) the ability of the borrower to  
4           prepay the loan, pay on a shorter schedule,  
5           and to change repayment plans;

6           “(iv) that borrower benefit programs  
7           may vary among different loan holders,  
8           and a description of how the borrower ben-  
9           efits may vary among different loan hold-  
10          ers;

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

13          “(vi) the consequences of default; and

14          “(vii) that by making the application  
15          the applicant is not obligated to agree to  
16          take the consolidation loan; and”.

17          (e) EFFECTIVE DATE FOR SINGLE HOLDER AMEND-  
18          MENT.—The amendment made by subsection (d)(2)(A)  
19          shall apply with respect to any loan made under section  
20          428C of the Higher Education Act of 1965 (20 U.S.C.  
21          1078–3) for which the application is received by an eligible  
22          lender on or after July 1, 2006.

23          (f) CONFORMING AMENDMENTS TO DIRECT LOAN  
24          PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended

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

3 (2) in subsection (a)(2)—

4 (A) by striking “and” at the end of sub-  
5 paragraph (B);

6 (B) by redesignating subparagraph (C) as  
7 subparagraph (D); and

8 (C) by inserting after subparagraph (B)  
9 the following:

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

12 (3) in subsection (g)—

13 (A) by striking the second sentence; and

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

22 **SEC. 2118. DEFERMENT OF STUDENT LOANS FOR MILITARY**  
23 **SERVICE.**

24 (a) FEDERAL FAMILY EDUCATION LOANS.—Section  
25 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

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

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

3 and

4 (3) by inserting after clause (ii) the following

5 new clause:

6 “(iii) not in excess of 3 years during

7 which the borrower—

8 “(I) is serving on active duty

9 during a war or other military oper-

10 ation or national emergency; or

11 “(II) is performing qualifying

12 National Guard duty during a war or

13 other military operation or national

14 emergency; or”.

15 (b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C.

16 1087e(f)(2)) is amended—

17 (1) by redesignating subparagraph (C) as sub-

18 paragraph (D); and

19 (2) by inserting after subparagraph (B) the fol-

20 lowing new subparagraph:

21 “(C) not in excess of 3 years during which

22 the borrower—

23 “(i) is serving on active duty during a

24 war or other military operation or national

25 emergency; or

1                   “(ii) is performing qualifying National  
2                   Guard duty during a war or other military  
3                   operation or national emergency; or”.

4           (c) PERKINS LOANS.—Section 464(c)(2)(A) (20  
5 U.S.C. 1087dd(c)(2)(A)) is amended—

6                   (1) by redesignating clauses (iii) and (iv) as  
7                   clauses (iv) and (v), respectively; and

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

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

12                               “(I) is serving on active duty during a war  
13                               or other military operation or national emer-  
14                               gency; or

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

18           (d) DEFINITIONS.—Section 481 (20 U.S.C. 1088) is  
19 amended by adding at the end the following new sub-  
20 section:

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

23                               “(1) ACTIVE DUTY.—The term ‘active duty’ has  
24                               the meaning given such term in section 101(d)(1) of  
25                               title 10, United States Code, except that such term

1 does not include active duty for training or attend-  
2 ance at a service school.

3 “(2) MILITARY OPERATION.—The term ‘mili-  
4 tary operation’ means a contingency operation as  
5 such term is defined in section 101(a)(13) of title  
6 10, United States Code.

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

13 “(4) SERVING ON ACTIVE DUTY.—The term  
14 ‘serving on active duty during a war or other mili-  
15 tary operation or national emergency’ means service  
16 by an individual who is—

17 “(A) a Reserve of an Armed Force ordered  
18 to active duty under section 12301(a),  
19 12301(g), 12302, 12304, or 12306 of title 10,  
20 United States Code, or any retired member of  
21 an Armed Force ordered to active duty under  
22 section 688 of such title, for service in connec-  
23 tion with a war or other military operation or  
24 national emergency, regardless of the location

1 at which such active duty service is performed;  
2 and

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

9 “(5) QUALIFYING NATIONAL GUARD DUTY.—

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

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

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to loans for which the  
3 first disbursement is made on or after July 1, 1993, to  
4 an individual who is a new borrower (within the meaning  
5 of section 103 of the Higher Education Act of 1965 (20  
6 U.S.C. 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  
10 read 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  
23 to 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  
4 Education Budget Reconciliation Act of 2005,  
5 who—

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

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

12 “(2) AWARD BASIS.—Loan repayment under  
13 this section shall be on a first-come, first-served  
14 basis pursuant to the designation under subsection  
15 (c) and subject to the availability of appropriations.

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

19 “(c) AREAS OF NATIONAL NEED.—

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

24 “(A) EARLY CHILDHOOD EDUCATORS.—An  
25 individual who is employed as an early child-

1 hood educator in an eligible preschool program  
2 or child care facility in a low-income commu-  
3 nity, and who is involved directly in the care,  
4 development and education of infants, toddlers,  
5 or young children through age five.

6 “(B) NURSES.—An individual who is em-  
7 ployed—

8 “(i) as a nurse in a clinical setting; or

9 “(ii) as a member of the nursing fac-  
10 ulty at an accredited school of nursing (as  
11 those terms are defined in section 801 of  
12 the Public Health Service Act (42 U.S.C.  
13 296)).

14 “(C) FOREIGN LANGUAGE SPECIALISTS.—  
15 An individual who has obtained a baccalaureate  
16 degree in a critical foreign language and is em-  
17 ployed—

18 “(i) in an elementary or secondary  
19 school as a teacher of a critical foreign lan-  
20 guage; or

21 “(ii) in an agency of the United  
22 States Government in a position that regu-  
23 larly requires the use of such critical for-  
24 eign language.

1           “(D) LIBRARIANS.—An individual who is  
2 employed as a librarian in—

3           “(i) a public library that serves a geo-  
4 graphic area within which the public  
5 schools have a combined average of 30 per-  
6 cent or more of their total student enroll-  
7 ments composed of children counted under  
8 section 1113(a)(5) of the Elementary and  
9 Secondary Education Act of 1965; or

10           “(ii) an elementary or secondary  
11 school which is in the school district of a  
12 local educational agency which is eligible in  
13 such year for assistance pursuant to title I  
14 of the Elementary and Secondary Edu-  
15 cation Act of 1965, and which for the pur-  
16 pose of this paragraph and for that year  
17 has been determined by the Secretary  
18 (pursuant to regulations and after con-  
19 sultation with the State educational agency  
20 of the State in which the school is located)  
21 to be a school in which the enrollment of  
22 children counted under section 1113(a)(5)  
23 of the Elementary and Secondary Edu-  
24 cation Act of 1965 exceeds 30 percent of  
25 the total enrollment of that school.

1           “(E) HIGHLY QUALIFIED TEACHERS: BI-  
2 LINGUAL EDUCATION AND LOW-INCOME COM-  
3 MUNITIES.—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  
10 service in a public or nonprofit private ele-  
11 mentary or secondary school which is in  
12 the school district of a local educational  
13 agency which is eligible in such year for  
14 assistance pursuant to title I of the Ele-  
15 mentary and Secondary Education Act of  
16 1965, and which for the purpose of this  
17 paragraph and for that year has been de-  
18 termined by the Secretary (pursuant to  
19 regulations and after consultation with the  
20 State educational agency of the State in  
21 which the school is located) to be a school  
22 in which the enrollment of children counted  
23 under section 1113(a)(5) of the Elemen-  
24 tary and Secondary Education Act of 1965

1 exceeds 40 percent of the total enrollment  
2 of that 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 in-  
11 dividual who—

12 “(i) has obtained a degree in social  
13 work or a related field with a focus on  
14 serving children and families; and

15 “(ii) is employed in public or private  
16 child welfare services.

17 “(H) SPEECH-LANGUAGE PATHOLO-  
18 GISTS.—An individual who is a speech-language  
19 pathologist, who is employed in an eligible pre-  
20 school program or an elementary or secondary  
21 school, and who has, at a minimum, a graduate  
22 degree in speech-language pathology, or com-  
23 munication 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  
5 NATIONAL NEED.—After consultation with appro-  
6 priate Federal, State, and community-based agencies  
7 and organizations, the Secretary shall designate ad-  
8 ditional areas of national need in which an indi-  
9 vidual may be employed full-time to be eligible for  
10 loan repayment under this section. In making such  
11 designations, the Secretary shall take into account  
12 the extent to which—

13 “(A) the national interest in the area is  
14 compelling;

15 “(B) the area suffers from a critical lack  
16 of qualified personnel; and

17 “(C) other Federal programs support the  
18 area concerned.

19 “(d) QUALIFIED LOAN AMOUNT.—Subject to the  
20 availability of appropriations, the Secretary shall repay  
21 not more than \$5,000 in the aggregate of the loan obliga-  
22 tion on a loan made under section 428 or 428H that is  
23 outstanding after the completion of the fifth consecutive  
24 school, academic, or calendar year, as appropriate, de-  
25 scribed in subsection (b)(1).

1       “(e) CONSTRUCTION.—Nothing in this section shall  
2 be construed to authorize the refunding of any repayment  
3 of a loan made under section 428 or 428H.

4       “(f) INELIGIBILITY OF NATIONAL SERVICE AWARD  
5 RECIPIENTS.—No student borrower may, for the same  
6 service, receive a benefit under both this section and sub-  
7 title D of title I of the National and Community Service  
8 Act of 1990 (42 U.S.C. 12601 et seq.).

9       “(g) INELIGIBILITY FOR DOUBLE BENEFITS.—No  
10 borrower 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  
3 the National Security Education Program, as a crit-  
4 ical foreign language need.

5 “(3) EARLY CHILDHOOD EDUCATOR.—The  
6 term ‘early childhood educator’ means an early  
7 childhood educator employed in an eligible preschool  
8 program who has completed a baccalaureate or ad-  
9 vanced degree in early childhood development, early  
10 childhood education, or in a field related to early  
11 childhood education.

12 “(4) ELIGIBLE PRESCHOOL PROGRAM.—The  
13 term ‘eligible preschool program’ means a program  
14 that provides for the care, development, and edu-  
15 cation of infants, toddlers, or young children  
16 through age 5, meets any applicable State or local  
17 government licensing, certification, approval, and  
18 registration requirements, 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  
24 (42 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  
9           income.

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  
14                   (as those terms are defined in section 801  
15                   of the Public Health Service Act (42  
16                   U.S.C. 296));

17                   “(ii) a nursing center; or

18                   “(iii) an academic health center that  
19                   provides nurse training.

20          “(B) The nurse holds a valid and unre-  
21          stricted license to practice nursing in the State  
22          in which the nurse practices in a clinical set-  
23          ting.

24          “(C) The nurse holds one or more of the  
25          following:

1                   “(i) A graduate degree in nursing, or  
2                   an equivalent degree.

3                   “(ii) A nursing degree from a colle-  
4                   giate school of nursing (as defined in sec-  
5                   tion 801 of the Public Health Service Act  
6                   (42 U.S.C. 296)).

7                   “(iii) A nursing degree from an asso-  
8                   ciate degree school of nursing (as defined  
9                   in section 801 of the Public Health Service  
10                  Act (42 U.S.C. 296)).

11                  “(iv) A nursing degree from a diploma  
12                  school of nursing (as defined in section  
13                  801 of the Public Health Service Act (42  
14                  U.S.C. 296)).

15                  “(7) SPEECH-LANGUAGE PATHOLOGIST.—The  
16                  term ‘speech-language pathologist’ means a speech-  
17                  language pathologist who meets all of the following:

18                  “(A) the speech-language pathologist has  
19                  received, at a minimum, a graduate degree in  
20                  speech-language pathology or communication  
21                  sciences and disorders from an institution of  
22                  higher education accredited by an agency or as-  
23                  sociation recognized by the Secretary pursuant  
24                  to section 496(a) of this Act; and

1           “(B) the speech-language pathologist  
2           meets or exceeds the qualifications described in  
3           section 1861(l)(3) of the Social Security Act  
4           (42 U.S.C. 1395x(3)).

5           “(i) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated to carry out this section  
7           such sums as may be necessary for fiscal year 2006 and  
8           such sums as may be necessary for each of the 5 suc-  
9           ceeding fiscal years.”.

10 **SEC. 2120. UNSUBSIDIZED STAFFORD LOANS.**

11           (a) AMENDMENT.—Section 428H(d)(2)(C) (20  
12 U.S.C. 1078–8(d)(2)(C)) is amended by striking  
13 “\$10,000” and inserting “\$12,000”.

14           (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to loans for which the first dis-  
16 bursement of principal is made on or after July 1, 2007.

17 **SEC. 2121. ELIMINATION OF TERMINATION DATES FROM**  
18 **TAXPAYER-TEACHER PROTECTION ACT OF**  
19 **2004.**

20           (a) EXTENSION OF LIMITATIONS ON SPECIAL AL-  
21 LOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EX-  
22 EMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–  
23 1(b)(2)(B)) is amended—

24           (1) in clause (iv), by striking “and before Janu-  
25           ary 1, 2006,”; and

1 (2) in clause (v)(II)—

2 (A) by striking “and before January 1,  
3 2006,” each place it appears in divisions (aa)  
4 and (bb); and

5 (B) by striking “, and before January 1,  
6 2006” in division (cc).

7 (b) ADDITIONAL LIMITATION ON SPECIAL ALLOW-  
8 ANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT  
9 ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–  
10 1(b)(2)(B)) is further amended by adding at the end  
11 thereof the following new clause:

12 “(vi) Notwithstanding clauses (i), (ii), and (v),  
13 the quarterly rate of the special allowance shall be  
14 the rate determined under subparagraph (A), (E),  
15 (F), (G), (H), or (I) of this paragraph, as the case  
16 may be, for a holder of loans—

17 “(I) that were made or purchased on or  
18 after October 1, 2005; or

19 “(II) that were not earning a quarterly  
20 rate of special allowance determined under  
21 clauses (i) or (ii) of subparagraph (B) of this  
22 paragraph (20 U.S.C. 1087–1(b)(2)(b)) as of  
23 October 1, 2005.”.

24 (c) ELIMINATION OF EFFECTIVE DATE LIMITATION  
25 ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—

1 Paragraph (3) of section 3(b) of the Taxpayer-Teacher  
2 Protection Act of 2004 (20 U.S.C. 1078–10 note) is  
3 amended by striking “, and before October 1, 2005”.

4 (d) ADDITIONAL CHANGES TO TEACHER LOAN FOR-  
5 GIVENESS PROVISIONS.—

6 (1) FFEL PROVISIONS.—Section 428J (20  
7 U.S.C. 1078–10) is amended—

8 (A) in subsection (b)(1)(B), by inserting  
9 after “1965” the following: “, or meets the re-  
10 quirements of subsection (g)(3)”;

11 (B) in subsection (c)(3)—

12 (i) by striking “and” at the end of  
13 subparagraph (A);

14 (ii) by striking the period at the end  
15 of subparagraph (B) and inserting “;  
16 and”;

17 (iii) by inserting after subparagraph  
18 (B) the following new subparagraph:

19 “(C) an elementary or secondary school  
20 teacher who primarily teaches reading—

21 “(i) who meets the requirements of  
22 subsection (b);

23 “(ii) who has obtained a separate  
24 reading instruction credential from the

1 State in which the teacher is employed;  
2 and

3 “(iii) who is certified by the chief ad-  
4 ministrative officer of the public or non-  
5 profit private elementary or secondary  
6 school in which the borrower is employed  
7 to teach reading—

8 “(I) as being proficient in teach-  
9 ing the essential components of read-  
10 ing instruction as defined in section  
11 1208 of the Elementary and Sec-  
12 ondary Education Act of 1965; and

13 “(II) as having such credential.”;  
14 and

15 (C) in subsection (g), by adding at the end  
16 the following new paragraph:

17 “(3) PRIVATE SCHOOL TEACHERS.—An indi-  
18 vidual who is employed as a teacher in a private  
19 school and is exempt from State certification re-  
20 quirements (unless otherwise applicable under State  
21 law), may, in lieu of the requirement of subsection  
22 (a)(1)(B), have such employment treated as quali-  
23 fying employment under this section if such indi-  
24 vidual is permitted to and does satisfy rigorous sub-  
25 ject knowledge and skills tests by taking competency

1 tests in the applicable grade levels and subject areas.  
2 For such purposes, the competency tests taken by  
3 such a private school teacher must be recognized by  
4 5 or more States for the purpose of fulfilling the  
5 highly qualified teacher requirements under section  
6 9101 of the Elementary and Secondary Education  
7 Act of 1965, and the score achieved by such teacher  
8 on each test must equal or exceed the average pass-  
9 ing score of those 5 States.”.

10 (2) DIRECT LOAN PROVISIONS.—Section 460  
11 (20 U.S.C. 1087j) is amended—

12 (A) in subsection (b)(1)(A)(ii), by inserting  
13 after “1965” the following: “, or meets the re-  
14 quirements of subsection (g)(3)”;

15 (B) in subsection (c)(3)—

16 (i) by striking “and” at the end of  
17 subparagraph (A);

18 (ii) by striking the period at the end  
19 of subparagraph (B) and inserting “;  
20 and”; and

21 (iii) by inserting after subparagraph  
22 (B) the following new subparagraph:

23 “(C) an elementary or secondary school  
24 teacher who primarily teaches reading—

1           “(i) who meets the requirements of  
2           subsection (b);

3           “(ii) who has obtained a separate  
4           reading instruction credential from the  
5           State in which the teacher is employed;  
6           and

7           “(iii) who is certified by the chief ad-  
8           ministrative officer of the public or non-  
9           profit private elementary or secondary  
10          school in which the borrower is employed  
11          to teach reading—

12                   “(I) as being proficient in teach-  
13                   ing the essential components of read-  
14                   ing instruction as defined in section  
15                   1208 of the Elementary and Sec-  
16                   ondary Education Act of 1965; and

17                   “(II) as having such credential.”;  
18           and

19           (C) in subsection (g), by adding at the end  
20          the following new paragraph:

21           “(3) PRIVATE SCHOOL TEACHERS.—An indi-  
22          vidual who is employed as a teacher in a private  
23          school and is exempt from State certification re-  
24          quirements (unless otherwise applicable under State  
25          law), may, in lieu of the requirement of subsection

1 (a)(1)(A)(ii), have such employment treated as  
2 qualifying employment under this section if such in-  
3 dividual is permitted to and does satisfy rigorous  
4 subject knowledge and skills tests by taking com-  
5 petency tests in the applicable grade levels and sub-  
6 ject areas. For such purposes, the competency tests  
7 taken by such a private school teacher must be rec-  
8 ognized by 5 or more States for the purpose of ful-  
9 filling the highly qualified teacher requirements  
10 under section 9101 of the Elementary and Sec-  
11 ondary Education Act of 1965, and the score  
12 achieved by such teacher on each test must equal or  
13 exceed the average passing score of those 5 States.”.

14 **SEC. 2122. LOAN FEES FROM LENDERS.**

15 Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is  
16 amended to read as follows:

17 “(2) AMOUNT OF LOAN FEES.—The amount of  
18 the loan fee which shall be deducted under para-  
19 graph (1) shall be equal to—

20 “(A) 0.50 percent of the principal amount  
21 of the loan with respect to any loan under this  
22 part for which the first disbursement was made  
23 on or after October 1, 1993, and before July 1,  
24 2006; and

1           “(B) 1.0 percent of the principal amount  
2           of the loan with respect to any loan under this  
3           part for which the first disbursement was made  
4           on or after July 1, 2006.”.

5 **SEC. 2123. ADDITIONAL ADMINISTRATIVE PROVISIONS.**

6           (a) TREATMENT OF EXEMPT CLAIMS.—

7           (1)       INSURANCE        COVERAGE.—Section  
8           428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended  
9           by inserting before the semicolon at the end the fol-  
10          lowing: “and 100 percent of the unpaid principal  
11          amount of exempt claims as defined in subsection  
12          (c)(1)(G)”.

13          (2)       TREATMENT.—Section   428(c)(1)   (20  
14          U.S.C. 1078(c)(1)) is amended—

15               (A) by redesignating subparagraph (G) as  
16               subparagraph (H), and moving such subpara-  
17               graph 2 em spaces to the left; and

18               (B) by inserting after subparagraph (F)  
19               the following new subparagraph:

20               “(G)(i) Notwithstanding any other provisions of  
21               this section, in the case of exempt claims, the Sec-  
22               retary shall apply the provisions of—

23                       “(I) the fourth sentence of subparagraph  
24                       (A) by substituting ‘100 percent’ for ‘95 per-  
25                       cent’;

1           “(II) subparagraph (B)(i) by substituting  
2           ‘100 percent’ for ‘85 percent’; and

3           “(III) subparagraph (B)(ii) by substituting  
4           ‘100 percent’ for ‘75 percent’.

5           “(ii) For purposes of clause (i) of this subpara-  
6           graph, the term ‘exempt claims’ means claims with  
7           respect to loans for which it is determined that the  
8           borrower (or the student on whose behalf a parent  
9           has borrowed), without the lender’s or the institu-  
10          tion’s knowledge at the time the loan was made, pro-  
11          vided false or erroneous information or took actions  
12          that caused the borrower or the student to be ineli-  
13          gible for all or a portion of the loan or for interest  
14          benefits thereon.”.

15          (b) REDUCTION OF INSURANCE PERCENTAGE.—

16           (1) INSURANCE PERCENTAGE REDUCTION.—  
17          Section 428(b)(1)(G) as amended by subsection  
18          (a)(1) is further amended by inserting after the mat-  
19          ter inserted by such subsection the following: “, ex-  
20          cept, for any loan for which the first disbursement  
21          of principal is made on or after July 1, 2006, the  
22          preceding provisions of this subparagraph shall be  
23          applied by substituting ‘96 percent’ for ‘98 per-  
24          cent’ ”.

1           (2) INCREASE INSURANCE FOR EXCEPTIONAL  
2           PERFORMANCE.—Section 428I (20 U.S.C. 1078–9)  
3           is amended to read as follows:

4           **“SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES**  
5                                   **FOR EXCEPTIONAL PERFORMANCE.**

6           “(a) DESIGNATION OF LENDERS AND SERVICERS.—

7                   “(1) IN GENERAL.—Whenever the Secretary de-  
8           termines that an eligible lender or servicer meets the  
9           performance measures required by paragraph (2),  
10          the Secretary shall designate that eligible lender or  
11          servicer, as the case may be, for exceptional per-  
12          formance. The Secretary shall notify each appro-  
13          priate guaranty agency of the eligible lenders and  
14          servicers designated under this section.

15                   “(2) PERFORMANCE MEASURES.—

16                           “(A) In determining whether to award a  
17          lender or servicer the exceptional performance  
18          designation, the Secretary shall require that the  
19          lender or servicer be performing at or above the  
20          95 percentile of the industry, and demonstrate  
21          improved performance against the lender’s or  
22          servicer’s average of the last 3 years on the fac-  
23          tors described in subparagraph (B).

24                           “(B) The factors on which the Secretary  
25          shall require improvement shall include—

1 “(i) delinquency rates;

2 “(ii) the rate at which delinquent ac-  
3 counts are restored to good standing;

4 “(iii) default rates;

5 “(iv) the rate of rejected claims; and

6 “(v) any other such measures as de-  
7 termined by the Secretary.

8 “(C) In addition, the Secretary shall not  
9 make any award of such a designation unless  
10 the consequence of the designation is cost-neu-  
11 tral to the Federal Government.

12 “(3) ADDITIONAL INFORMATION ON LENDERS  
13 AND SERVICERS.—Each appropriate guaranty agen-  
14 cy shall provide the Secretary with such other infor-  
15 mation in its possession regarding an eligible lender  
16 or servicer desiring designation as may relate to the  
17 Secretary’s determination under paragraph (1), in-  
18 cluding but not limited to any information sug-  
19 gesting that the application of a lender or servicer  
20 for designation should not be approved.

21 “(4) DETERMINATIONS BY THE SECRETARY.—

22 “(A) The Secretary shall designate an eli-  
23 gible lender or servicer for exceptional perform-  
24 ance if the eligible lender or servicer meets the

1 performance measures required by paragraph  
2 (2).

3 “(B) The Secretary shall make the deter-  
4 mination under paragraph (1) based upon the  
5 documentation submitted by the eligible lender  
6 or servicer as specified in regulation, such other  
7 information as provided by any guaranty agen-  
8 cy under paragraph (3), and any information in  
9 the possession of the Secretary or submitted by  
10 any other agency or office of the Federal Gov-  
11 ernment.

12 “(C) The Secretary shall inform the eligi-  
13 ble lender or servicer and the appropriate guar-  
14 anty agency that its application for designation  
15 as an exceptional performance lender or servicer  
16 has been approved or disapproved.

17 “(5) TRANSITION.—

18 “(A) Any eligible lender or servicer des-  
19 ignated for exceptional performance as of the  
20 day before the date of enactment of the Higher  
21 Education Budget Reconciliation Act of 2005  
22 shall continue to be so designated, and subject  
23 to the requirements of this section as in effect  
24 on that day (including revocation), until the

1 performance standards described in paragraph  
2 (2) are established.

3 “(B) The Secretary shall not designate any  
4 additional eligible lenders or servicers for excep-  
5 tional performance until those performance  
6 standards are established.

7 “(b) PAYMENT TO LENDERS AND SERVICERS.—A  
8 guaranty agency shall pay, to each eligible lender or  
9 servicer (as agent for an eligible lender) designated under  
10 subsection (a), 98 percent of the unpaid principal and in-  
11 terest of all loans for which claims are submitted for pay-  
12 ment by that eligible lender or servicer for the one-year  
13 period following the receipt by the guaranty agency of the  
14 notification of designation under this section, or until the  
15 guaranty agency receives notice from the Secretary that  
16 the designation of the lender or servicer under subsection  
17 (a)(2) has been revoked.

18 “(c) REVOCATION AUTHORITY.—

19 “(1) The Secretary shall revoke the designation  
20 of a lender or a servicer under subsection (a) if the  
21 Secretary determines that the lender or servicer has  
22 failed to meet the performance standards required  
23 by subsection (a)(2).

24 “(2) Notwithstanding any other provision of  
25 this section, a designation under subsection (a) may

1 be revoked at any time by the Secretary, in the Sec-  
2 retary's discretion, if the Secretary determines that  
3 the eligible lender or servicer has failed to meet the  
4 criteria and performance standards established by  
5 the Secretary in regulation, or if the Secretary be-  
6 lieves the lender or servicer may have engaged in  
7 fraud in securing designation under subsection (a),  
8 or is failing to service loans in accordance with pro-  
9 gram regulations.

10 “(d) DOCUMENTATION.—Nothing in this section  
11 shall restrict or limit the authority of guaranty agencies  
12 to require the submission of claims documentation evi-  
13 dencing servicing performed on loans, except that the  
14 guaranty agency may not require greater documentation  
15 than that required for lenders and servicers not designated  
16 under subsection (a).

17 “(e) SPECIAL RULE.—Reimbursements made by the  
18 Secretary on loans submitted for claim by an eligible lend-  
19 er or loan servicer designated for exceptional performance  
20 under this section shall not be subject to additional review  
21 by the Secretary or repurchase by the guaranty agency  
22 for any reason other than a determination by the Sec-  
23 retary that the eligible lender or loan servicer engaged in  
24 fraud or other purposeful misconduct in obtaining des-  
25 ignation for exceptional performance.

1       “(f) LIMITATION.—Nothing in this section shall be  
2 construed to affect the processing of claims on student  
3 loans of eligible lenders not subject to this section.

4       “(g) CLAIMS.—A lender or servicer designated under  
5 subsection (a) failing to service loans or otherwise comply  
6 with applicable program regulations shall be considered in  
7 violation of section 3729 of title 31, United States Code.

8       “(h) TERMINATION.—The Secretary may terminate  
9 the designation of lenders and servicers under this section  
10 if he determines that termination would be in the fiscal  
11 interest of the United States.

12       “(i) DEFINITIONS.—As used in this section—

13               “(1) the term ‘eligible loan’ means a loan made,  
14 insured, or guaranteed under this part; and

15               “(2) the term ‘servicer’ means an entity serv-  
16 icing and collecting student loans that—

17                       “(A) has substantial experience in serv-  
18 icing and collecting consumer loans or student  
19 loans;

20                       “(B) has an independent financial audit  
21 annually which is furnished to the Secretary  
22 and any other parties designated by the Sec-  
23 retary;

24                       “(C) has business systems which are capa-  
25 ble of meeting the requirements of this part;

1           “(D) has adequate personnel who are  
2           knowledgeable about the student loan programs  
3           authorized by this part; and

4           “(E) does not have any owner, majority  
5           shareholder, director, or officer of the entity  
6           who has been convicted of a felony.”.

7           (3) EFFECTIVE DATE OF AMENDMENTS.—The  
8           amendments made by this subsection shall apply  
9           with respect to loans for which the first disburse-  
10          ment of principal is made on or after July 1, 2006.

11          (c) DOCUMENTATION OF FORBEARANCE AGREE-  
12          MENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further  
13          amended—

14               (1) in paragraph (3)(A)(i)—

15                       (A) by striking “in writing”; and

16                       (B) by inserting “and documented in ac-  
17                       cordance with paragraph (10)” after “approval  
18                       of the insurer”; and

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

21               “(10) DOCUMENTATION OF FORBEARANCE  
22          AGREEMENTS.—For the purposes of paragraph (3),  
23          the terms of forbearance agreed to by the parties  
24          shall be documented by confirming the agreement of  
25          the borrower by notice to the borrower from the

1 lender, and by recording the terms in the borrower's  
2 file.”.

3 (d) CONSOLIDATION OF DEFAULTED LOANS.—Sec-  
4 tion 428(c) (20 U.S.C. 1078(c)) is further amended—

5 (1) in paragraph (2)(A)—

6 (A) by inserting “(i)” after “including”;

7 and

8 (B) by inserting before the semicolon at  
9 the end the following: “and (ii) requirements es-  
10 tablishing procedures to preclude consolidation  
11 lending from being an excessive proportion of  
12 guaranty agency recoveries on defaulted loans  
13 under this part”;

14 (2) in paragraph (2)(D), by striking “para-  
15 graph (6)” and inserting “paragraph (6)(A)”; and

16 (3) in paragraph (6)—

17 (A) by inserting “(A)” before “For the  
18 purpose of paragraph (2)(D),”;

19 (B) by redesignating subparagraphs (A)  
20 and (B) as clauses (i) and (ii), respectively; and

21 (C) by adding at the end the following new  
22 subparagraphs:

23 “(B) A guaranty agency shall—

24 “(i) on or after October 1, 2006—

1           “(I) not charge the borrower collec-  
2           tion costs in an amount in excess of 18.5  
3           percent of the outstanding principal and  
4           interest of a defaulted loan that is paid off  
5           through consolidation by the borrower  
6           under this title; and

7           “(II) remit to the Secretary a portion  
8           of the collection charge under subclause (I)  
9           equal to 8.5 percent of the outstanding  
10          principal and interest of such defaulted  
11          loan; and

12          “(ii) on and after October 1, 2009, remit  
13          to the Secretary the entire amount charged  
14          under clause (i)(I) with respect to each de-  
15          faulted loan that is paid off with excess consoli-  
16          dation proceeds.

17          “(C) For purposes of subparagraph (B), the  
18          term ‘excess consolidation proceeds’ means, with re-  
19          spect to any guaranty agency for any Federal fiscal  
20          year beginning on or after October 1, 2009, the pro-  
21          ceeds of consolidation of defaulted loans under this  
22          title that exceed 45 percent of the agency’s total col-  
23          lections on defaulted loans in such Federal fiscal  
24          year.”.

1           (e) COLLECTION RETENTION PERCENTAGES.—  
2 Clause (ii) of section 428(c)(6)(B) (20 U.S.C.  
3 1078(c)(6)(B)), as redesignated by subsection (d)(3) of  
4 this section, is amended to read as follows:

5                   “(ii) an amount equal to 24 percent of  
6                   such payments for use in accordance with sec-  
7                   tion 422B, except that—

8                           “(I) beginning on October 1, 2003,  
9                           and ending on October 1, 2006, this clause  
10                           shall be applied by substituting ‘23 per-  
11                           cent’ for ‘24 percent’; and

12                                   “(II) beginning on October 1, 2006,  
13                                   this clause shall be applied by substituting  
14                                   ‘20 percent’ for ‘24 percent.’”.

15           (f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section  
16 428A (20 U.S.C. 1078–1) is amended—

17                   (1) in subsection (a)(1)(B), by striking “unless  
18                   the Secretary” and all that follows through “des-  
19                   ignated guarantor”;

20                   (2) by striking paragraph (2) of subsection (a);

21                   (3) in paragraph (4)(B) of subsection (a), by  
22                   striking “and any waivers provided to other guar-  
23                   anty agencies under paragraph (2)”;

1           (4) by redesignating paragraphs (3) and (4) of  
2 subsection (a) as paragraphs (2) and (3), respec-  
3 tively; and

4           (5) by striking paragraph (3) of subsection (c)  
5 and inserting the following:

6           “(3) NOTICE TO INTERESTED PARTIES.—Once  
7 the Secretary reaches a tentative agreement in prin-  
8 ciple under this section, the Secretary shall publish  
9 in the Federal Register a notice that invites inter-  
10 ested parties to comment on the proposed agree-  
11 ment. The notice shall state how to obtain a copy of  
12 the tentative agreement in principle and shall give  
13 interested parties no less than 30 days to provide  
14 comments. The Secretary may consider such com-  
15 ments prior to providing the notices pursuant to  
16 paragraph (2).”.

17           (g) FRAUD: REPAYMENT REQUIRED.—Section  
18 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended—

19           (1) by striking “and” at the end of subpara-  
20 graph (A);

21           (2) by redesignating subparagraph (B) as sub-  
22 paragraph (C); and

23           (3) by inserting after subparagraph (A) the fol-  
24 lowing new subparagraph:

1           “(B) in the case of a parent who has been  
2 convicted of, or has pled nolo contendere or  
3 guilty to, a crime involving fraud in obtaining  
4 funds under this title, such parent has com-  
5 pleted the repayment of such funds to the Sec-  
6 retary, or to the holder in the case of a loan  
7 under this title obtained by fraud; and”.

8           (h) DEFAULT REDUCTION PROGRAM.—Section  
9 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

10           (1) in subparagraph (A), by striking “consecu-  
11 tive payments for 12 months” and inserting “9 pay-  
12 ments made within 20 days of the due date during  
13 10 consecutive months”;

14           (2) by redesignating subparagraph (C) as sub-  
15 paragraph (D); and

16           (3) by inserting after subparagraph (B) the fol-  
17 lowing new subparagraph:

18           “(C) A guaranty agency may charge the  
19 borrower and retain collection costs in an  
20 amount not to exceed 18.5 percent of the out-  
21 standing principal and interest at the time of  
22 sale of a loan rehabilitated under subparagraph  
23 (A).”.

24           (i) FINANCIAL AND ECONOMIC LITERACY.—

1           (1) DEFAULT REDUCTION PROGRAM.—Section  
2           428F is further amended by adding at the end the  
3           following:

4           “(c) FINANCIAL AND ECONOMIC LITERACY.—Where  
5           appropriate, each program described under subsection (b)  
6           shall include making financial and economic education ma-  
7           terials available to the borrower.”.

8           (2) PROGRAM ASSISTANCE FOR BORROWERS.—  
9           Section 432(k)(1) (20 U.S.C. 1082(k)(1)) is amend-  
10          ed by striking “and offering” and all that follows  
11          through the period and inserting “, offering loan re-  
12          payment matching provisions as part of employee  
13          benefit packages, and providing employees with fi-  
14          nancial and economic education and counseling.”.

15          (j) CREDIT BUREAU ORGANIZATION AGREEMENTS.—  
16          Section 430A(a) (20 U.S.C. 1080a(a)) is amended by  
17          striking “agreements with credit bureau organizations”  
18          and inserting “an agreement with each national credit bu-  
19          reau organization (as described in section 603(p) of the  
20          Fair Credit Reporting Act)”.

21          (k) UNIFORM ADMINISTRATIVE AND CLAIMS PROCE-  
22          DURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H))  
23          is amended by inserting “and anticipated graduation  
24          date” after “status change”.

1 (l) DEFAULT REDUCTION MANAGEMENT.—Section  
2 432 is further amended—

3 (1) by striking subsection (n); and

4 (2) by redesignating subsections (o) and (p) as  
5 subsections (n) and (o), respectively.

6 (m) SCHOOLS AS LENDERS.—Paragraph (2) of sec-  
7 tion 435(d) (20 U.S.C. 1085(d)(2)) is amended to read  
8 as follows:

9 “(2) REQUIREMENTS FOR ELIGIBLE INSTITU-  
10 TIONS.—

11 “(A) IN GENERAL.—To be an eligible lend-  
12 er under this part, an eligible institution—

13 “(i) shall employ at least one person  
14 whose full-time responsibilities are limited  
15 to the administration of programs of finan-  
16 cial aid for students attending such institu-  
17 tion;

18 “(ii) shall not be a home study school;

19 “(iii) shall not—

20 “(I) make a loan to any under-  
21 graduate student;

22 “(II) make a loan other than a  
23 loan under section 428 or 428H to a  
24 graduate or professional student; or

1                   “(III) make a loan to a borrower  
2                   who is not enrolled at that institution;

3                   “(iv) shall award any contract for fi-  
4                   nancing, servicing, or administration of  
5                   loans under this title on a competitive  
6                   basis;

7                   “(v) shall offer loans that carry an  
8                   origination fee or an interest rate, or both,  
9                   that are less than such fee or rate author-  
10                  ized under the provisions of this title;

11                  “(vi) shall not have a cohort default  
12                  rate (as defined in section 435(m)) greater  
13                  than 10 percent;

14                  “(vii) shall, for any year for which the  
15                  institution engages in activities as an eligi-  
16                  ble lender, provide for a compliance audit  
17                  conducted in accordance with section  
18                  428(b)(1)(U)(iii)(I), and the regulations  
19                  thereunder, and submit the results of such  
20                  audit to the Secretary; and

21                  “(viii) shall use any proceeds from  
22                  special allowance payments and interest  
23                  payments from borrowers, interest sub-  
24                  sidies received from the Department of  
25                  Education, and any proceeds from the sale

1           or other disposition of loans, for need-  
2           based grant programs.

3           “(B) ADMINISTRATIVE EXPENSES.—An el-  
4           igible lender under subparagraph (A) shall be  
5           permitted to use a portion of the proceeds de-  
6           scribed in subparagraph (A)(viii) for reasonable  
7           and direct administrative expenses.

8           “(C) SUPPLEMENT, NOT SUPPLANT.—An  
9           eligible lender under subparagraph (A) shall en-  
10          sure that the proceeds described in subpara-  
11          graph (A)(viii) are used to supplement, and not  
12          to supplant, non-Federal funds that would oth-  
13          erwise be used for need-based grant pro-  
14          grams.”.

15          (n) DISABILITY DETERMINATIONS.—Section 437(a)  
16          (20 U.S.C. 1087(a)) is amended by adding at the end the  
17          following new sentence: “In making such determination of  
18          permanent and total disability, the Secretary shall not re-  
19          quire a borrower who has been certified as permanently  
20          and totally disabled by the Department of Veterans Af-  
21          fairs or the Social Security Administration to present fur-  
22          ther documentation of disability for purposes of this  
23          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 sub-  
18 clause (I);

19 (B) by striking the period at the end of  
20 subclause (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  
9 the cost of attendance at an eligible institution out-  
10 side 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”  
2       and inserting “described in subparagraph (A) shall  
3       be computed using the interest rate described in sec-  
4       tion 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  
11       to the Secretary, from funds not otherwise appro-  
12       priated, funds to be obligated for—

13                       “(A) administrative costs under this part  
14                       and part B, including the costs of the direct  
15                       student 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  
23       of the fiscal years 2007 through 2011, there are au-  
24       thorized to be appropriated such sums as may be  
25       necessary for administrative costs under this part

1 and part B, including the costs of the direct student  
2 loan 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 appro-  
7 priated, funds to be obligated for account mainte-  
8 nance fees payable to guaranty agencies under part  
9 B and calculated 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  
16 subsequent fiscal year.

17 “(b) CALCULATION BASIS.—Account maintenance  
18 fees payable to guaranty agencies under subsection (a)(3)  
19 shall not exceed the basis of 0.10 percent of the original  
20 principal amount of outstanding loans on which insurance  
21 was issued under part B.

22 “(c) BUDGET JUSTIFICATION.—No funds may be ex-  
23 pended under this section unless the Secretary includes  
24 in the Department of Education’s annual budget justifica-  
25 tion to Congress a detailed description of the specific ac-

1 tivities for which the funds made available by this section  
2 have been used in the prior and current years (if applica-  
3 ble), the activities and costs planned for the budget year,  
4 and the projection of activities and costs for each remain-  
5 ing year for which administrative expenses under this sec-  
6 tion are made available.”.

7 **SEC. 2125. SIGNIFICANTLY SIMPLIFYING THE STUDENT AID**  
8 **APPLICATION PROCESS.**

9 (a) **EXPANDING THE AUTO-ZERO AND FURTHER**  
10 **SIMPLIFYING 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  
19 eligible to file, a form described in para-  
20 graph (3) or certify that they are not re-  
21 quired to file an income tax return, and  
22 the student files, or is eligible to file, such  
23 a form or certifies that the student is not  
24 required to file an income tax return, or  
25 the student’s parents, or the student, re-

1 received benefits at some time during the  
2 previous 12-month period under a means-  
3 tested Federal benefit program as defined  
4 under subsection (d); 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 cer-  
11 tifies that the student (and the student’s  
12 spouse, if any) is not required to file an in-  
13 come tax return, or the student (and the  
14 student’s spouse, if any) received benefits  
15 at some time during the previous 12-month  
16 period under a means-tested Federal ben-  
17 efit program as defined under subsection  
18 (d); 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  
22 case may be, if the student or family, re-  
23 spectively, files” and inserting “In the case  
24 of an independent student, the student, or  
25 in the case of a dependent student, the

1 parent, files a form described in this sub-  
2 section, or subsection (c), as the case may  
3 be, if the student or parent, as appro-  
4 priate, files”;

5 (B) in subsection (c)—

6 (i) in paragraph (1), by striking sub-  
7 paragraph (A) and inserting the following:

8 “(A) the student’s parents file, or are eligi-  
9 ble to file, a form described in subsection (b)(3)  
10 or certify that they are not required to file an  
11 income tax return, and the student files, or is  
12 eligible to file, such a form or certifies that the  
13 student is not required to file an income tax re-  
14 turn, or the student’s parents, or the student,  
15 received benefits at some time during the pre-  
16 vious 12-month period under a means-tested  
17 Federal benefit program as defined in sub-  
18 section (d); and”;

19 (ii) in paragraph (2), by striking sub-  
20 paragraph (A) and inserting the following:

21 “(A) the student (and the student’s  
22 spouse, if any) files, or is eligible to file, a form  
23 described in subsection (b)(3) or certifies that  
24 the student (and the student’s spouse, if any)  
25 is not required to file an income tax return, or

1 the student (and the student’s spouse, if any)  
2 received benefits at some time during the pre-  
3 vious 12-month period under a means-tested  
4 Federal benefit program as defined in sub-  
5 section (d); and”;

6 (C) by adding at the end the following new  
7 subsections:

8 “(d) DEFINITION OF MEANS-TESTED FEDERAL  
9 BENEFIT PROGRAM.—For the purposes of this section,  
10 the term ‘means-tested Federal benefit program’ means  
11 a mandatory spending program of the Federal Govern-  
12 ment, other than a program under this title, in which eligi-  
13 bility for the program’s benefits, or the amount of such  
14 benefits, or both, are determined on the basis of income  
15 or resources of the individual or family seeking the benefit,  
16 and may include such programs as the supplemental secu-  
17 rity income program under title XVI of the Social Security  
18 Act, the food stamp program under the Food Stamp Act  
19 of 1977, the free and reduced price school lunch program  
20 established under the Richard B. Russell National School  
21 Lunch Act, the temporary assistance to needy families  
22 program established under part A of title IV of the Social  
23 Security Act, and the women, infants and children pro-  
24 gram established under Section 17 of the Child Nutrition

1 Act of 1966, and other programs identified by the Sec-  
2 retary.

3 “(e) REPORTING REQUIREMENTS.—The Secretary  
4 shall regularly evaluate the impact of the eligibility guide-  
5 lines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A)  
6 and (c)(2)(A) of this section. In particular, the Secretary  
7 shall evaluate whether using receipt of benefits under a  
8 means-tested Federal benefit program (as defined in sub-  
9 section (d)) for eligibility continues to target the Sim-  
10 plified Needs Test, to the greatest extent possible, for use  
11 by low- and moderate-income students and their fami-  
12 lies.”.

13 (b) IMPROVEMENTS TO PAPER AND ELECTRONIC  
14 FORMS.—

15 (1) COMMON FINANCIAL AID FORM DEVELOP-  
16 MENT AND PROCESSING.—Section 483(a) (20 U.S.C.  
17 1090(a)) is amended—

18 (A) by striking paragraphs (1), (2), and  
19 (5);

20 (B) by redesignating paragraphs (3), (4),  
21 (6), and (7), as paragraphs (9), (10), (11), and  
22 (12), respectively;

23 (C) by inserting before paragraph (9), as  
24 redesignated by subparagraph (B), the fol-  
25 lowing:

1           “(1) IN GENERAL.—The Secretary, in coopera-  
2           tion with representatives of agencies and organiza-  
3           tions involved in student financial assistance, shall  
4           produce, distribute, and process free of charge com-  
5           mon financial reporting forms as described in this  
6           subsection to be used for application and reapplica-  
7           tion to determine the need and eligibility of a stu-  
8           dent for financial assistance under parts A through  
9           E (other than subpart 4 of part A). These forms  
10          shall be made available to applicants in both paper  
11          and electronic formats and shall be referred to as  
12          the ‘Free Application for Federal Student Aid’ or  
13          the ‘FAFSA’ .

14          “(2) EARLY ESTIMATES.—

15                 “(A) IN GENERAL.—The Secretary shall  
16                 permit applicants to complete such forms as de-  
17                 scribed in this subsection in the 4 years prior  
18                 to enrollment in order to obtain a non-binding  
19                 estimate of the family contribution, as defined  
20                 in section 473. The estimate shall clearly and  
21                 conspicuously indicate that it is only an esti-  
22                 mate of family contribution, and may not re-  
23                 flect the actual family contribution of the appli-  
24                 cant that shall be used to determine the grant,  
25                 loan, or work assistance that the applicant may

1 receive under this title when enrolled in a pro-  
2 gram of postsecondary education. Such appli-  
3 cants shall be permitted to update information  
4 submitted on forms described in this subsection  
5 using the process required under paragraph  
6 (5)(A).

7 “(B) EVALUATION.—Two years after the  
8 early estimates are implemented under this  
9 paragraph and from data gathered from the  
10 early estimates, the Secretary shall evaluate the  
11 differences between initial, non-binding early es-  
12 timates and the final financial aid award made  
13 available under this title.

14 “(C) REPORT.—The Secretary shall pro-  
15 vide a report to the authorizing committees on  
16 the results of the evaluation.

17 “(3) PAPER FORMAT.—

18 “(A) IN GENERAL.—The Secretary shall  
19 produce, distribute, and process common forms  
20 in paper format to meet the requirements of  
21 paragraph (1). The Secretary shall develop a  
22 common paper form for applicants who do not  
23 meet the requirements of subparagraph (B).

24 “(B) EZ FAFSA.—

1           “(i) IN GENERAL.—The Secretary  
2 shall develop and use a simplified paper  
3 application form, to be known as the ‘EZ  
4 FAFSA’, to be used for applicants meeting  
5 the requirements of section 479(c).

6           “(ii) REDUCED DATA REQUIRE-  
7 MENTS.—The form under this subpara-  
8 graph shall permit an applicant to submit,  
9 for financial assistance purposes, only the  
10 data elements required to make a deter-  
11 mination of whether the applicant meets  
12 the requirements under section 479(c).

13           “(iii) STATE DATA.—The Secretary  
14 shall include on the form under this sub-  
15 paragraph such data items as may be nec-  
16 essary to award State financial assistance,  
17 as provided under paragraph (6), except  
18 that the Secretary shall not include a  
19 State’s data if that State does not permit  
20 its applicants for State assistance to use  
21 the form under this subparagraph.

22           “(iv) FREE AVAILABILITY AND PROC-  
23 ESSING.—The provisions of paragraph (7)  
24 shall apply to the form under this subpara-  
25 graph, and the data collected by means of

1 the form under this subparagraph shall be  
2 available to institutions of higher edu-  
3 cation, guaranty agencies, and States in  
4 accordance with paragraph (9).

5 “(v) TESTING.—The Secretary shall  
6 conduct appropriate field testing on the  
7 form under this subparagraph.

8 “(C) PROMOTING THE USE OF ELEC-  
9 TRONIC FAFSA.—

10 “(i) IN GENERAL.—The Secretary  
11 shall—

12 “(I) develop a form that uses  
13 skip logic to simplify the application  
14 process for applicants; and

15 “(II) make all efforts to encour-  
16 age applicants to utilize the electronic  
17 forms described in paragraph (4).

18 “(ii) MAINTENANCE OF THE FAFSA IN  
19 A PRINTABLE ELECTRONIC FILE.—The  
20 Secretary shall maintain a version of the  
21 paper forms described in subparagraphs  
22 (A) and (B) in a printable electronic file  
23 that is easily portable. The printable elec-  
24 tronic file will be made easily accessible  
25 and downloadable to students on the same

1 website used to provide students with the  
2 electronic application forms described in  
3 paragraph (4) of this subsection. The Sec-  
4 retary shall enable students to submit a  
5 form created under this subparagraph that  
6 is downloaded and printed from an elec-  
7 tronic file format in order to meet the fil-  
8 ing requirements of this section and in  
9 order to receive aid from programs under  
10 this title.

11 “(iii) REPORTING REQUIREMENT.—

12 The Secretary shall report annually to  
13 Congress on the impact of the digital di-  
14 vide on students completing applications  
15 for title IV aid described under this para-  
16 graph and paragraph (4). The Secretary  
17 will also report on the steps taken to elimi-  
18 nate the digital divide and phase out the  
19 paper form described in subparagraph (A)  
20 of this paragraph. The Secretary’s report  
21 will specifically address the impact of the  
22 digital divide on the following student pop-  
23 ulations: dependent students, independent  
24 students without dependents, and inde-

1           pendent students with dependents other  
2           than a spouse.

3           “(4) ELECTRONIC FORMAT.—

4                   “(A) IN GENERAL.—The Secretary shall  
5           produce, distribute, and process common forms  
6           in electronic format to meet the requirements of  
7           paragraph (1). The Secretary shall develop  
8           common electronic forms for applicants who do  
9           not meet the requirements of subparagraph (C)  
10          of this paragraph.

11                   “(B) STATE DATA.—The Secretary shall  
12          include on the common electronic forms space  
13          for information that needs to be submitted from  
14          the applicant to be eligible for State financial  
15          assistance, as provided under paragraph (6), ex-  
16          cept the Secretary shall not require applicants  
17          to complete data required by any State other  
18          than the applicant’s State of residence.

19                   “(C) SIMPLIFIED APPLICATIONS: FAFSA ON  
20          THE WEB.—

21                   “(i) IN GENERAL.—The Secretary  
22          shall develop and use a simplified elec-  
23          tronic application form to be used by appli-  
24          cants meeting the requirements under sub-  
25          section (c) of section 479 and an addi-

1 tional, separate simplified electronic appli-  
2 cation form to be used by applicants meet-  
3 ing the requirements under subsection (b)  
4 of section 479.

5 “(ii) REDUCED DATA REQUIRE-  
6 MENTS.—The simplified electronic applica-  
7 tion forms shall permit an applicant to  
8 submit for financial assistance purposes  
9 only the data elements required to make a  
10 determination of whether the applicant  
11 meets the requirements under subsection  
12 (b) or (c) of section 479.

13 “(iii) STATE DATA.—The Secretary  
14 shall include on the simplified electronic  
15 application forms such data items as may  
16 be necessary to award state financial as-  
17 sistance, as provided under paragraph (6),  
18 except that the Secretary shall not require  
19 applicants to complete data required by  
20 any State other than the applicant’s State  
21 of residence.

22 “(iv) AVAILABILITY AND PROC-  
23 ESSING.—The data collected by means of  
24 the simplified electronic application forms  
25 shall be available to institutions of higher

1 education, guaranty agencies, and States  
2 in accordance with paragraph (9).

3 “(V) TESTING.—The Secretary shall  
4 conduct appropriate field testing on the  
5 forms developed under this subparagraph.

6 “(D) USE OF FORMS.—Nothing in this  
7 subsection shall be construed to prohibit the use  
8 of the forms developed by the Secretary pursu-  
9 ant to this paragraph by an eligible institution,  
10 eligible lender, guaranty agency, State grant  
11 agency, private computer software provider, a  
12 consortium thereof, or such other entities as the  
13 Secretary may designate.

14 “(E) PRIVACY.—The Secretary shall en-  
15 sure that data collection under this paragraph  
16 complies with section 552a of title 5, United  
17 States Code, and that any entity using the elec-  
18 tronic version of the forms developed by the  
19 Secretary pursuant to this paragraph shall  
20 maintain reasonable and appropriate adminis-  
21 trative, technical, and physical safeguards to  
22 ensure the integrity and confidentiality of the  
23 information, and to protect against security  
24 threats, or unauthorized uses or disclosures of  
25 the information provided on the electronic

1 version of the forms. Data collected by such  
2 electronic version of the forms shall be used  
3 only for the application, award, and administra-  
4 tion of aid awarded under this title, State aid,  
5 or aid awarded by eligible institutions or such  
6 entities as the Secretary may designate. No  
7 data collected by such electronic version of the  
8 forms shall be used for making final aid awards  
9 under this title until such data have been proc-  
10 essed by the Secretary or a contractor or des-  
11 ignee of the Secretary, and an expected family  
12 contribution has been calculated by the Sec-  
13 retary, except as may be permitted under this  
14 title.

15 “(F) SIGNATURE.—Notwithstanding any  
16 other provision of this Act, the Secretary may  
17 permit an electronic form under this paragraph  
18 to be submitted with an electronic signature.

19 “(5) STREAMLINING.—

20 “(A) STREAMLINED REAPPLICATION PROC-  
21 ESS.—

22 “(i) IN GENERAL.—The Secretary  
23 shall develop streamlined reapplication  
24 forms and processes, including both paper  
25 and electronic reapplication processes, con-

1           sistent with the requirements of this sub-  
2           section, for an applicant who applies for fi-  
3           nancial assistance under this title—

4                   “(I) in the academic year suc-  
5                   ceeding the year in which such appli-  
6                   cant first applied for financial assist-  
7                   ance under this title; or

8                   “(II) in any succeeding academic  
9                   years.

10                   “(ii) MECHANISMS FOR REAPPLICA-  
11                   TION.—The Secretary shall develop appro-  
12                   priate mechanisms to support reapplica-  
13                   tion.

14                   “(iii) IDENTIFICATION OF UPDATED  
15                   DATA.—The Secretary shall determine, in  
16                   cooperation with States, institutions of  
17                   higher education, agencies, and organiza-  
18                   tions involved in student financial assist-  
19                   ance, the data elements that can be up-  
20                   dated from the previous academic year’s  
21                   application.

22                   “(iv) REDUCED DATA AUTHORIZED.—  
23                   Nothing in this title shall be construed as  
24                   limiting the authority of the Secretary to

1 reduce the number of data elements re-  
2 quired of reapplicants.

3 “(v) ZERO FAMILY CONTRIBUTION.—  
4 Applicants determined to have a zero fam-  
5 ily contribution pursuant to section 479(c)  
6 shall not be required to provide any finan-  
7 cial data in a reapplication form, except  
8 that which is necessary to determine eligi-  
9 bility under such section.

10 “(B) REDUCTION OF DATA ELEMENTS.—

11 “(i) REDUCTION ENCOURAGED.—Of  
12 the number of data elements on the  
13 FAFSA on the date of enactment of the  
14 Higher Education Budget Reconciliation  
15 Act of 2005 (including questions on the  
16 FAFSA for the purposes described in  
17 paragraph (6)), the Secretary, in coopera-  
18 tion with representatives of agencies and  
19 organizations involved in student financial  
20 assistance, shall continue to reduce the  
21 number of such data elements following  
22 the date of enactment. Reductions of data  
23 elements under paragraph (3)(B), (4)(C),  
24 or (5)(A)(iv) shall not be counted towards  
25 the reduction referred to in this paragraph

1           unless those data elements are reduced for  
2           all applicants.

3           “(ii) REPORT.—The Secretary shall  
4           annually report to the House of Represent-  
5           atives and the Senate on the progress  
6           made of reducing data elements.

7           “(6) STATE REQUIREMENTS.—

8           “(A) IN GENERAL.—The Secretary shall  
9           include on the forms developed under this sub-  
10          section, such State-specific data items as the  
11          Secretary determines are necessary to meet  
12          State requirements for State need-based finan-  
13          cial aid under section 415C, except as provided  
14          in paragraphs (3)(B)(iii) and (4)(C)(iii) of this  
15          subsection. Such items shall be selected in con-  
16          sultation with State agencies in order to assist  
17          in the awarding of State financial assistance in  
18          accordance with the terms of this subsection,  
19          except as provided in paragraphs (3)(B)(iii) and  
20          (4)(C)(iii) of this subsection. The number of  
21          such data items shall not be less than the num-  
22          ber included on the form on October 7, 1998,  
23          unless a State notifies the Secretary that the  
24          State no longer requires those data items for

1 the distribution of State need-based financial  
2 aid.

3 “(B) ANNUAL REVIEW.—The Secretary  
4 shall conduct an annual review process to deter-  
5 mine which forms and data items the States re-  
6 quire to award State need-based financial aid  
7 and other application requirements that the  
8 States may impose.

9 “(C) STATE USE OF SIMPLIFIED FORMS.—  
10 The Secretary shall encourage States to take  
11 such steps as necessary to encourage the use of  
12 simplified application forms, including those de-  
13 scribed in paragraphs (3)(B) and (4)(C), to  
14 meet the requirements under subsection (b) or  
15 (c) of section 479.

16 “(D) FEDERAL REGISTER NOTICE.—The  
17 Secretary shall publish on an annual basis a no-  
18 tice in the Federal Register requiring State  
19 agencies to inform the Secretary—

20 “(i) if the State agency is unable to  
21 permit applicants to utilize the simplified  
22 application forms described in paragraphs  
23 (3)(B) and (4)(C); and

1           “(ii) of the State-specific data that  
2           the State agency requires for delivery of  
3           State need-based financial aid.

4           “(E) STATE NOTIFICATION TO THE SEC-  
5           RETARY.—

6           “(i) IN GENERAL.—Each State agency  
7           shall notify the Secretary—

8                   “(I) whether the State permits  
9                   an applicant to file a form described  
10                  in paragraph (3)(B) or paragraph  
11                  (4)(C) of this subsection for purposes  
12                  of determining eligibility for State  
13                  need-based financial aid; and

14                   “(II) the State-specific data that  
15                  the State agency requires for delivery  
16                  of State need-based financial aid.

17           “(ii) ACCEPTANCE OF FORMS.—In the  
18           event that a State does not permit an ap-  
19           plicant to file a form described in para-  
20           graph (3)(B) or paragraph (4)(C) of this  
21           subsection for purposes of determining eli-  
22           gibility for State need-based financial  
23           aid—

24                   “(I) the State shall notify the  
25                  Secretary if the State is not permitted

1 to do so because of either State law or  
2 because of agency policy; and

3 “(II) the notification under sub-  
4 clause (I) shall include an estimate of  
5 the program cost to permit applicants  
6 to complete simplified application  
7 forms under paragraphs (3)(B) and  
8 paragraph (4)(C) of this subsection.

9 “(iii) LACK OF NOTIFICATION BY THE  
10 STATE.—If a State does not notify the  
11 Secretary pursuant to clause (i), the Sec-  
12 retary shall—

13 “(I) permit residents of that  
14 State to complete simplified applica-  
15 tion forms under paragraphs (3)(B)  
16 and paragraph (4)(C) of this sub-  
17 section; and

18 “(II) not require any resident of  
19 that State to complete any data pre-  
20 viously required by that State under  
21 this section.

22 “(7) CHARGES TO STUDENTS AND PARENTS  
23 FOR USE OF FORMS PROHIBITED.—

24 “(A) FEES PROHIBITED.—The FAFSA, in  
25 whatever form (including the EZ-FAFSA,

1 paper, electronic, simplified, or reapplication),  
2 shall be produced, distributed, and processed by  
3 the Secretary and no parent or student shall be  
4 charged a fee by any entity for the collection,  
5 processing, or delivery of financial aid through  
6 the use of the FAFSA. The need and eligibility  
7 of a student for financial assistance under parts  
8 A through E of this title (other than under sub-  
9 part 4 of part A) may only be determined by  
10 using the FAFSA developed by the Secretary  
11 pursuant to this subsection. No student may re-  
12 ceive assistance under parts A through E of  
13 this title (other than under subpart 4 of part  
14 A), except by use of the FAFSA developed by  
15 the Secretary pursuant to this subsection. No  
16 data collected on a form, worksheet, or other  
17 document for which a fee is charged shall be  
18 used to complete the FAFSA.

19 “(B) NOTICE.—Any entity that provides to  
20 students or parents, or charges students or par-  
21 ents for, any value-added services with respect  
22 to or in connection with the FAFSA, such as  
23 completion of the FAFSA, submission of the  
24 FAFSA, or tracking of the FAFSA for a stu-

1           dent, shall provide to students and parents  
2           clear and conspicuous notice that—

3                   “(i) the FAFSA is a free Federal stu-  
4           dent aid application;

5                   “(ii) the FAFSA can be completed  
6           without professional assistance; and

7                   “(iii) includes the current Internet ad-  
8           dress for the FAFSA on the Department’s  
9           web site.

10           “(8) APPLICATION PROCESSING CYCLE.—The  
11           Secretary shall enable students to submit a form  
12           created under this subsection in order to meet the  
13           filing requirements of this section and in order to re-  
14           ceive aid from programs under this title and shall  
15           initiate the processing of applications under this  
16           subsection as early as practicable prior to January  
17           1 of the student’s planned year of enrollment.”.

18           (2) MASTER CALENDAR.—Section 482(a)(1)(B)  
19           (20 U.S.C. 1089) is amended to read as follows:

20                   “(B) by March 1: proposed modifications,  
21           updates, and notices pursuant to sections 478,  
22           479(c)(2)(C), and 483(a)(6) published in the  
23           Federal Register;”.

1 (c) INCREASING ACCESS TO TECHNOLOGY.—Section  
2 483 (20 U.S.C. 1090) is further amended by adding at  
3 the end the following:

4 “(f) ADDRESSING THE DIGITAL DIVIDE.—The Sec-  
5 retary shall utilize savings accrued by moving more appli-  
6 cants to the electronic forms described in subsection (a)(4)  
7 to improve access to the electronic forms described in sub-  
8 section (a)(4) for applicants meeting the requirements of  
9 section 479(c).”.

10 (d) EXPANDING THE DEFINITION OF AN INDE-  
11 PENDENT STUDENT.—Section 480(d) (20  
12 U.S.C.1087vv(d)) is amended by striking paragraph (2)  
13 and inserting the following:

14 “(2) is an orphan, in foster care, or a ward of  
15 the court, or was in foster care or a ward of the  
16 court until the individual reached the age of 18;”.

17 **SEC. 2126. ADDITIONAL NEED ANALYSIS AMENDMENTS.**

18 (a) INCOME PROTECTION ALLOWANCE FOR DEPEND-  
19 ENT STUDENTS.—

20 (1) AMENDMENT.—Section 475(g)(2)(D) (20  
21 U.S.C. 1087oo(g)(2)(D)) is amended by striking  
22 “\$2,200” and inserting “\$3,000”.

23 (2) CONFORMING AMENDMENT.—Section  
24 478(b) (20 U.S.C. 1087rr(b)) is amended by adding  
25 at the end the following new paragraph:

1           “(3) REVISED AMOUNTS AFTER INCREASE.—  
2           Notwithstanding paragraph (2), for each academic  
3           year after academic year 2006–2007, the Secretary  
4           shall publish in the Federal Register a revised in-  
5           come protection allowance for the purpose of section  
6           475(g)(2)(D). Such revised allowance shall be devel-  
7           oped by increasing the dollar amount contained in  
8           such section by a percentage equal to the estimated  
9           percentage increase in the Consumer Price Index (as  
10          determined by the Secretary) between December  
11          2005 and the December next preceding the begin-  
12          ning of such academic year, and rounding the result  
13          to the nearest \$10.”.

14           (3) EFFECTIVE DATE.—The amendments made  
15          by this subsection shall apply with respect to deter-  
16          minations of need for periods of enrollment begin-  
17          ning on or after July 1, 2006.

18          (b) EMPLOYMENT EXPENSE ALLOWANCE.—Section  
19          478(h) (20 U.S.C. 1087rr(h)) is amended—

20           (1) by striking “476(b)(4)(B),”; and

21           (2) by striking “meals away from home, apparel  
22          and upkeep, transportation, and housekeeping serv-  
23          ices” and inserting “food away from home, apparel,  
24          transportation, and household furnishings and oper-  
25          ations”.

1 (c) DISCRETION OF STUDENT FINANCIAL AID AD-  
2 MINISTRATORS.—Section 479A(a) (20 U.S.C. 1087tt(a))  
3 is amended—

4 (1) by striking “(a) IN GENERAL.—” and in-  
5 serting the following:

6 “(a) AUTHORITY TO MAKE ADJUSTMENTS.—

7 “(1) ADJUSTMENTS FOR SPECIAL CIR-  
8 CUMSTANCES.—”;

9 (2) by inserting before “Special circumstances  
10 may” the following:

11 “(2) SPECIAL CIRCUMSTANCES DEFINED.—”;

12 (3) by inserting “a student’s status as a ward  
13 of the court at any time prior to attaining 18 years  
14 of age, a student’s status as an individual who was  
15 adopted at or after age 13, a student’s status as a  
16 homeless or unaccompanied youth (as defined in sec-  
17 tion 725 of the McKinney-Vento Homeless Assist-  
18 ance Act),” after “487,”;

19 (4) by inserting before “Adequate documenta-  
20 tion” the following:

21 “(3) DOCUMENTATION AND USE OF SUPPLE-  
22 MENTARY INFORMATION.—”; and

23 (5) by inserting before “No student” the fol-  
24 lowing:

1           “(4) FEES FOR SUPPLEMENTARY INFORMATION  
2           PROHIBITED.—”.

3           (d) TREATING ACTIVE DUTY MEMBERS OF THE  
4           ARMED FORCES AS INDEPENDENT STUDENTS.—Section  
5           480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by insert-  
6           ing before the semicolon at the end the following: “or is  
7           currently serving on active duty in the Armed Forces for  
8           other than training purposes”.

9           (e) EXCLUDABLE INCOME.—Section 480(e) (20  
10          U.S.C. 1087vv(e)) is amended—

11           (1) by striking “and” at the end of paragraph  
12           (3);

13           (2) by striking the period at the end of para-  
14           graph (4) and inserting “; and”; and

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

17           “(5) any part of any distribution from a quali-  
18           fied tuition program established under section 529  
19           of the Internal Revenue Code of 1986 that is not in-  
20           cludable in gross income under such section 529.”.

21          (f) TREATMENT OF SAVINGS PLANS.—

22           (1) AMENDMENT.—Section 480(f) (20 U.S.C.  
23           1087vv(f)) is amended—

24           (A) in paragraph (1), by inserting “quali-  
25           fied tuition programs established under section

1           529 of the Internal Revenue Code of 1986 (26  
2           U.S.C. 529), except as provided in paragraph  
3           (2),” after “tax shelters,”;

4                   (B) by redesignating paragraph (2) as  
5           paragraph (3); and

6                   (C) by inserting after paragraph (1) the  
7           following new paragraph:

8           “(2) A qualified tuition program shall not be consid-  
9           ered an asset of a dependent student under section 475  
10          of this part. The value of a qualified tuition program for  
11          purposes of determining the assets of parents or inde-  
12          pendent students shall be—

13                   “(A) the refund value of any tuition credits or  
14          certificates purchased under section 529 of the In-  
15          ternal Revenue Code of 1986 (26 U.S.C. 529) on be-  
16          half of a beneficiary; or

17                   “(B) the current balance of any account which  
18          is established under such section for the purpose of  
19          meeting the qualified higher education expenses of  
20          the designated beneficiary of the account.”.

21                   (2) CONFORMING AMENDMENT.—Section 480(j)  
22          (20 U.S.C. 1087vv(j)) is amended—

23                           (A) by striking “; TUITION PREPAYMENT  
24          PLANS” in the heading of such subsection;

25                           (B) by striking paragraph (2);

1 (C) in paragraph (3), by inserting “, or a  
2 distribution that is not includable in gross in-  
3 come under section 529 of such Code,” after  
4 “1986”; and

5 (D) by redesignating paragraph (3) as  
6 paragraph (2).

7 (g) TREATMENT OF FAMILY OWNERSHIP OF SMALL  
8 BUSINESSES.—Section 480(f)(3) of the Higher Education  
9 Act of 1965 (20 U.S.C. 1087vv(f)(3)), as redesignated by  
10 subsection (f) of this section, is amended—

11 (1) in subparagraph (A), by striking “or”;

12 (2) in subparagraph (B), by striking the period  
13 at the end and inserting “; or”; and

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

16 “(C) a small business with not more than 100  
17 full-time or full-time equivalent employees (or any  
18 part of such a small business) that is owned and  
19 controlled by the family.”.

20 (h) DESIGNATED ASSISTANCE.—Section 480(j) (20  
21 U.S.C. 1087vv(j)) is amended by adding after paragraph  
22 (2) (as redesignated by subsection (f)(2)(D) of this sec-  
23 tion) the following new paragraph:

24 “(3) Notwithstanding paragraph (1) and section 472,  
25 assistance not received under this title may be excluded

1 from both estimated financial assistance and cost of at-  
2 tendance, if that assistance is provided by a State and is  
3 designated by such State to offset a specific component  
4 of the cost of attendance. If that assistance is excluded  
5 from either estimated financial assistance or cost of at-  
6 tendance, it shall be excluded from both.”.

7 **SEC. 2127. DEFINITION OF ELIGIBLE PROGRAM.**

8 Section 481(b) (20 U.S.C. 1088(b)) is amended by  
9 adding at the end the following new paragraph:

10 “(3) For purposes of this title, an eligible program  
11 includes an instructional program that utilizes direct as-  
12 sessment of student learning, or recognizes the direct as-  
13 sessment of student learning, in lieu of credit hours or  
14 clock hours as the measure of student learning. In the case  
15 of a program being determined eligible for the first time  
16 under this paragraph, such determination shall be made  
17 by the Secretary before such program is considered to be  
18 eligible. The Secretary shall provide an annual report to  
19 Congress identifying the programs made eligible under  
20 this paragraph.”.

21 **SEC. 2128. DISTANCE EDUCATION.**

22 (a) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—  
23 Section 481(b) (20 U.S.C. 1088(b)) is amended by adding  
24 after paragraph (3) (as added by section 2127 of this Act)  
25 the following new paragraph:

1       “(4) An otherwise eligible program that is offered in  
2 whole or in part through telecommunications is eligible for  
3 the purposes of this title if the program is offered by an  
4 institution, other than a foreign institution, that has been  
5 evaluated and determined (before or after the date of en-  
6 actment of this paragraph) to have the capability to effec-  
7 tively deliver distance education programs by an accred-  
8 iting agency or association that—

9               “(A) is recognized by the Secretary under sub-  
10 part 2 of Part H; and

11               “(B) has evaluation of distance education pro-  
12 grams within the scope of its recognition, as de-  
13 scribed in section 496(n)(3).”.

14       (b) CORRESPONDENCE COURSES.—Section 484(l)(1)  
15 (20 U.S.C. 1091(l)(1)) is amended—

16               (1) in subparagraph (A)—

17                       (A) by striking “for a program of study of  
18 1 year or longer”; and

19                       (B) by striking “unless the total” and all  
20 that follows through “courses at the institu-  
21 tion”; and

22               (2) by amending subparagraph (B) to read as  
23 follows:

24                       “(B) EXCEPTION.—Subparagraph (A)  
25 does not apply to an institution or school de-

1           scribed in section 3(3)(C) of the Carl D. Per-  
2           kins Vocational and Technical Education Act of  
3           1998.”.

4 **SEC. 2129. STUDENT ELIGIBILITY.**

5           (a) **FRAUD: REPAYMENT REQUIRED.**—Section  
6 484(a) (20 U.S.C. 1091(a)) is amended—

7           (1) by striking the period at the end of para-  
8           graph (5) and inserting “; and”; and

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

11           “(6) if the student has been convicted of, or has  
12          pled nolo contendere or guilty to, a crime involving  
13          fraud in obtaining funds under this title, have com-  
14          pleted the repayment of such funds to the Secretary,  
15          or to the holder in the case of a loan under this title  
16          obtained by fraud.”.

17          (b) **TECHNICAL AMENDMENT.**—Section 484(b)(5)  
18 (20 U.S.C. 1091(b)(5)) is amended by inserting “or par-  
19 ent (on behalf of a student)” after “student”.

20          (c) **LOAN INELIGIBILITY BASED ON INVOLUNTARY**  
21 **CIVIL COMMITMENT FOR SEXUAL OFFENSES.**—Section  
22 484(b)(5) (20 U.S.C. 1091(b)(5)) is further amended by  
23 inserting before the period the following: “, and no student  
24 who is subject to an involuntary civil commitment upon  
25 completion of a period of incarceration for a sexual offense

1 (as determined under regulations of the Secretary) is eligi-  
2 ble to receive a loan under this title”.

3 (d) FREELY ASSOCIATED STATES.—Section 484(j)  
4 (20 U.S.C. 1091(j)) is amended by inserting “and shall  
5 be eligible only for assistance under subpart 1 of part A  
6 thereafter,” after “part C,”.

7 (e) VERIFICATION OF INCOME DATE.—Paragraph  
8 (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to  
9 read as follows:

10 “(1) CONFIRMATION WITH IRS.—The Secretary  
11 of Education, in cooperation with the Secretary of  
12 the Treasury, is authorized to confirm with the In-  
13 ternal Revenue Service the information specified in  
14 section 6103(l)(13) of the Internal Revenue Code of  
15 1986 reported by applicants (including parents)  
16 under this title on their Federal income tax returns  
17 for the purpose of verifying the information reported  
18 by applicants on student financial aid applications.”.

19 (f) SUSPENSION OF ELIGIBILITY FOR DRUG OF-  
20 FENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is  
21 amended by striking everything preceding the table and  
22 inserting the following:

23 “(1) IN GENERAL.—A student who is convicted  
24 of any offense under any Federal or State law in-  
25 volving the possession or sale of a controlled sub-

1 stance for conduct that occurred during a period of  
2 enrollment for which the student was receiving any  
3 grant, loan, or work assistance under this title shall  
4 not be eligible to receive any grant, loan, or work as-  
5 sistance under this title from the date of that convic-  
6 tion for the period of time specified in the following  
7 table.”.

8 **SEC. 2130. INSTITUTIONAL REFUNDS.**

9 Section 484B (20 U.S.C. 1091b) is amended—

10 (1) in subsection (a)(1), by inserting “subpart  
11 4 of part A or” after “received under”;

12 (2) in subsection (a)(2), by striking “takes a  
13 leave” and by inserting “takes one or more leaves”;

14 (3) in subsection (a)(3)(B)(ii), by inserting “(as  
15 determined in accordance with subsection (d))” after  
16 “student has completed”;

17 (4) in subsection (a)(4), by amending subpara-  
18 graph (A) to read as follows:

19 “(A) IN GENERAL.—After determining the  
20 eligibility of the student for a late disbursement  
21 or post-withdrawal disbursement (as required in  
22 regulations prescribed by the Secretary), the in-  
23 stitution of higher education shall contact the  
24 borrower and obtain confirmation that the loan  
25 funds are still required by the borrower. In

1 making such contact, the institution shall ex-  
2 plain to the borrower the borrower's obligation  
3 to repay the funds following any such disburse-  
4 ment. The institution shall document in the  
5 borrower's file the result of such contact and  
6 the final determination made concerning such  
7 disbursement.”;

8 (5) in subsection (b)(1), by inserting “no later  
9 than 45 days from the determination of withdrawal”  
10 after “return”;

11 (6) in subsection (b)(2), by amending subpara-  
12 graph (C) to read as follows:

13 “(C) GRANT OVERPAYMENT REQUIRE-  
14 MENTS.—

15 “(i) IN GENERAL.—Notwithstanding  
16 subparagraphs (A) and (B), a student  
17 shall only be required to return grant as-  
18 sistance in the amount (if any) by which—

19 “(I) the amount to be returned  
20 by the student (as determined under  
21 subparagraphs (A) and (B)), exceeds

22 “(II) 50 percent of the total  
23 grant assistance received by the stu-  
24 dent under this title for the payment  
25 period or period of enrollment.

1                   “(ii) MINIMUM.—A student shall not  
2                   be required to return amounts of \$50 or  
3                   less.”; and

4                   (7) in subsection (d), by striking “(a)(3)(B)(i)”  
5                   and inserting “(a)(3)(B)”.

6 **SEC. 2131. COLLEGE ACCESS INITIATIVE.**

7                   Part G is further amended by inserting after section  
8 485C (20 U.S.C. 1092c) the following new section:

9 **“SEC. 485D. COLLEGE ACCESS INITIATIVE.**

10                  “(a) STATE-BY-STATE INFORMATION.—The Sec-  
11 retary shall direct each guaranty agency with which the  
12 Secretary has an agreement under section 428(c) to pro-  
13 vide to the Secretary the information necessary for the de-  
14 velopment of web links and access for students and fami-  
15 lies to a comprehensive listing of the postsecondary edu-  
16 cation opportunities, programs, publications, Internet Web  
17 sites, and other services available in the States for which  
18 such agency serves as the designated guarantor.

19                  “(b) GUARANTY AGENCY ACTIVITIES.—

20                   “(1) PLAN AND ACTIVITY REQUIRED.—Each  
21 guaranty agency with which the Secretary has an  
22 agreement under section 428(c) shall develop a plan  
23 and undertake the activity necessary to gather the  
24 information required under subsection (a) and to  
25 make such information available to the public and to

1 the Secretary in a form and manner as prescribed  
2 by the Secretary.

3 “(2) ACTIVITIES.—Each guaranty agency shall  
4 undertake such activities as are necessary to pro-  
5 mote access to postsecondary education for students  
6 through providing information on college planning,  
7 career preparation, and paying for college. The guar-  
8 anty agency shall publicize such information and co-  
9 ordinate such activities with other entities that ei-  
10 ther provide or distribute such information in the  
11 States for which such guaranty agency serves as the  
12 designated guarantor.

13 “(3) FUNDING.—The activities required by this  
14 section may be funded from the guaranty agency’s  
15 operating account established pursuant to section  
16 422B and, to the extent funds remain, from earn-  
17 ings on the restricted account established pursuant  
18 to section 422(h)(4).

19 “(c) ACCESS TO INFORMATION.—

20 “(1) SECRETARY’S RESPONSIBILITY.—The Sec-  
21 retary shall ensure the availability of the information  
22 provided by the guaranty agencies in accordance  
23 with this section to students, parents, and other in-  
24 terested individuals, through web links or other  
25 methods prescribed by the Secretary.

1           “(2) GUARANTY AGENCY RESPONSIBILITY.—  
2           The guaranty agencies shall ensure that the infor-  
3           mation required by this section is available without  
4           charge in printed format for students and parents  
5           requesting such information.

6           “(3) PUBLICITY.—Within 270 days after the  
7           date of enactment of the Higher Education Budget  
8           Reconciliation Act of 2005, the Secretary and guar-  
9           anty agencies shall publicize the availability of the  
10          information required by this section, with special  
11          emphasis on ensuring that populations that are tra-  
12          ditionally underrepresented in postsecondary edu-  
13          cation are made aware of the availability of such in-  
14          formation.”.

15 **SEC. 2132. CANCELLATION OF STUDENT LOAN INDEBTED-**  
16 **NESS FOR SURVIVORS OF VICTIMS OF THE**  
17 **SEPTEMBER 11, 2001, ATTACKS.**

18          (a) DEFINITIONS.—For purposes of this section:

19               (1) ELIGIBLE PUBLIC SERVANT.—The term “el-  
20               igible public servant” means an individual who, as  
21               determined in accordance with regulations of the  
22               Secretary—

23                       (A) served as a police officer, firefighter,  
24                       other safety or rescue personnel, or as a mem-  
25                       ber of the Armed Forces; and

1           (B) died (or dies) or became (or becomes)  
2           permanently and totally disabled due to injuries  
3           suffered in the terrorist attacks on September  
4           11, 2001.

5           (2) ELIGIBLE VICTIM.—The term “eligible vic-  
6           tim” means an individual who, as determined in ac-  
7           cordance with regulations of the Secretary, died (or  
8           dies) or became (or becomes) permanently and to-  
9           tally disabled due to injuries suffered in the terrorist  
10          attacks on September 11, 2001.

11          (3) ELIGIBLE PARENT.—The term “eligible  
12          parent” means the parent of an eligible victim if—

13                (A) the parent owes a Federal student loan  
14                that is a consolidation loan that was used to  
15                repay a PLUS loan incurred on behalf of such  
16                eligible victim; or

17                (B) the parent owes a Federal student loan  
18                that is a PLUS loan incurred on behalf of an  
19                eligible victim.

20          (4) SECRETARY.—The term “Secretary” means  
21          the Secretary of Education.

22          (5) FEDERAL STUDENT LOAN.—The term  
23          “Federal student loan” means any loan made, in-  
24          sured, or guaranteed under part B, D, or E of title  
25          IV of the Higher Education Act of 1965.

1 (b) RELIEF FROM INDEBTEDNESS.—

2 (1) IN GENERAL.—The Secretary shall provide  
3 for the discharge or cancellation of—

4 (A) the Federal student loan indebtedness  
5 of the spouse of an eligible public servant, as  
6 determined in accordance with regulations of  
7 the Secretary, including any consolidation loan  
8 that was used jointly by the eligible public serv-  
9 ant and his or her spouse to repay the Federal  
10 student loans of the spouse and the eligible  
11 public servant;

12 (B) the portion incurred on behalf of the  
13 eligible victim (other than an eligible public  
14 servant), of a Federal student loan that is a  
15 consolidation loan that was used jointly by the  
16 eligible victim and his or her spouse, as deter-  
17 mined in accordance with regulations of the  
18 Secretary, to repay the Federal student loans of  
19 the eligible victim and his or her spouse;

20 (C) the portion of the consolidation loan  
21 indebtedness of an eligible parent that was in-  
22 curred on behalf of an eligible victim; and

23 (D) the PLUS loan indebtedness of an eli-  
24 gible parent that was incurred on behalf of an  
25 eligible victim.

1           (2) METHOD OF DISCHARGE OR CANCELLA-  
2           TION.—A loan required to be discharged or canceled  
3           under paragraph (1) shall be discharged or canceled  
4           by the method used under section 437(a), 455(a)(1),  
5           or 464(c)(1)(F) of the Higher Education Act of  
6           1965 (20 U.S.C. 1087(a), 1087e(a)(1),  
7           1087dd(c)(1)(F)), whichever is applicable to such  
8           loan.

9           (c) FACILITATION OF CLAIMS.—The Secretary  
10 shall—

11           (1) establish procedures for the filing of appli-  
12           cations for discharge or cancellation under this sec-  
13           tion by regulations that shall be prescribed and pub-  
14           lished within 90 days after the date of enactment of  
15           this Act and without regard to the requirements of  
16           section 553 of title 5, United States Code; and

17           (2) take such actions as may be necessary to  
18           publicize the availability of discharge or cancellation  
19           of Federal student loan indebtedness under this sec-  
20           tion.

21           (d) AVAILABILITY OF FUNDS FOR PAYMENTS.—  
22 Funds available for the purposes of making payments to  
23 lenders in accordance with section 437(a) for the dis-  
24 charge of indebtedness of deceased or disabled individuals

1 shall be available for making payments under section  
2 437(a) to lenders of loans as required by this section.

3 (e) APPLICABLE TO OUTSTANDING DEBT.—The pro-  
4 visions of this section shall be applied to discharge or can-  
5 cel only Federal student loans (including consolidation  
6 loans) on which amounts were owed on September 11,  
7 2001. Nothing in this section shall be construed to author-  
8 ize any refunding of any repayment of a loan.

9 **SEC. 2133. INDEPENDENT EVALUATION OF DISTANCE EDU-**  
10 **CATION PROGRAMS.**

11 (a) INDEPENDENT EVALUATION.—The Secretary of  
12 Education shall enter into an agreement with the National  
13 Academy of Sciences to conduct a scientifically correct and  
14 statistically valid evaluation of the quality of distance edu-  
15 cation programs, as compared to campus-based education  
16 programs, at institutions of higher education. Such eval-  
17 uation shall include—

18 (1) identification of the elements by which the  
19 quality of distance education, as compared to cam-  
20 pus-based education, can be assessed, including ele-  
21 ments such as subject matter, interactivity, and stu-  
22 dent outcomes;

23 (2) identification of distance and campus-based  
24 education program success, with respect to student

1 achievement, in relation to the mission of the insti-  
2 tution of higher education; and

3 (3) identification of the types of students (in-  
4 cluding classification of types of students based on  
5 student age) who most benefit from distance edu-  
6 cation programs, the types of students who most  
7 benefit from campus-based education programs, and  
8 the types of students who do not benefit from dis-  
9 tance education programs, by assessing elements in-  
10 cluding access to higher education, job placement  
11 rates, undergraduate graduation rates, and graduate  
12 and professional degree attainment rates.

13 (b) SCOPE.—The National Academy of Sciences shall  
14 select for participation in the evaluation under subsection  
15 (a) a diverse group of institutions of higher education with  
16 respect to size, mission, and geographic distribution.

17 (c) INTERIM AND FINAL REPORTS.—The agreement  
18 under subsection (a) shall require that the National Acad-  
19 emy of Sciences submit to the Secretary of Education, the  
20 Committee on Health, Education, Labor and Pensions of  
21 the Senate, and the Committee on Education and the  
22 Workforce of the House of Representatives—

23 (1) an interim report regarding the evaluation  
24 under subsection (a) not later than December 31,  
25 2007; and

1           (2) a final report regarding such evaluation not  
2           later than December 31, 2009.

3 **SEC. 2134. DISBURSEMENT OF STUDENT LOANS.**

4           Section 422(d) of the Higher Education Amendments  
5 of 1998 (Public Law 105–244; 112 Stat. 1696) is amend-  
6 ed by adding at the end the following new sentence: “Such  
7 amendments shall also be effective on and after July 1,  
8 2006.”.

9           **PART 2—HIGHER EDUCATION RELIEF**

10 **SEC. 2141. REFERENCES.**

11           References in this part to “the Act” are references  
12 to the Higher Education Act of 1965 (20 U.S.C. 1001  
13 et seq.).

14 **SEC. 2142. WAIVERS AND MODIFICATIONS.**

15           Notwithstanding any other provision of law, unless  
16 enacted with specific reference to this section, the Sec-  
17 retary of Education is authorized to waive or modify any  
18 statutory or regulatory provision applicable to the student  
19 financial assistance programs under title IV of the Act,  
20 or any student or institutional eligibility provisions in the  
21 Act, as the Secretary of Education deems necessary in  
22 connection with a Gulf hurricane disaster to ensure that—

23           (1) the calculation of expected family contribu-  
24           tion under section 474 of the Act used in the deter-  
25           mination of need for student financial assistance

1 under title IV of the Act for any affected student  
2 (and the determination of such need for his or her  
3 family, if applicable), is modified to reflect any  
4 changes in the financial condition of such affected  
5 student and his or her family resulting from a Gulf  
6 hurricane disaster; and

7 (2) institutions of higher education, systems of  
8 institutions, or consortia of institutions that are lo-  
9 cated in an area affected by a Gulf hurricane dis-  
10 aster, or that are serving affected students, are eligi-  
11 ble, notwithstanding section 486(d) of the Act, to  
12 apply for participation in the distance education  
13 demonstration program under section 486 of the  
14 Act, except that the Secretary of Education shall in-  
15 clude in reports under section 486(f) of the Act an  
16 identification of those institutions, systems, and con-  
17 sortia that were granted participation in the dem-  
18 onstration program due to a Gulf hurricane disaster.

19 **SEC. 2143. CANCELLATION OF INSTITUTIONAL REPAYMENT**  
20 **BY COLLEGES AND UNIVERSITIES AFFECTED**  
21 **BY A GULF HURRICANE DISASTER.**

22 Notwithstanding any provision of title IV of the Act  
23 or any regulation issued thereunder, the Secretary of Edu-  
24 cation shall cancel any obligation of an affected institution  
25 to return or repay any funds the institution received be-

1 fore the date of enactment of this Act for, or on behalf  
2 of, its students under subpart 1 or 3 of part A or parts  
3 B, C, D, or E of title IV of the Act for any cancelled  
4 enrollment period.

5 **SEC. 2144. CANCELLATION OF STUDENT LOANS FOR CAN-**  
6 **CELLED ENROLLMENT PERIODS.**

7 (a) **LOAN FORGIVENESS AUTHORIZED.**—Notwith-  
8 standing any provision of title IV of the Act, the Secretary  
9 shall discharge all loan amounts under parts B and D of  
10 title IV of the Act, and cancel any loan made under part  
11 E of such title, disbursed to, or on behalf of, an affected  
12 student for a cancelled enrollment period.

13 (b) **REIMBURSEMENT.**—The Secretary of Education  
14 shall—

15 (1) reimburse each affected institution for any  
16 amounts discharged under subsection (a) with re-  
17 spect to a loan under part E of title IV of the Act  
18 in the same manner as is required by section 465(b)  
19 of the Act with respect to a loan cancelled under sec-  
20 tion 465(a) of the Act; and

21 (2) reimburse lenders for the purpose of dis-  
22 charging any loan amounts disbursed to, or on be-  
23 half of, an affected student under part B of title IV  
24 of the Act for a cancelled enrollment period.

1 (c) LIMITATION ON CONSOLIDATION LOANS.—A loan  
2 amount for a loan made under section 428C of the Act  
3 or a Federal Direct Consolidation Loan may be eligible  
4 for discharge under this section only to the extent that  
5 such loan amount was used to repay a loan to an affected  
6 student for a cancelled enrollment period.

7 (d) CONSTRUCTION.—Nothing in this section shall be  
8 construed to authorize any refunding of any repayment  
9 of a loan.

10 **SEC. 2145. TEMPORARY DEFERMENT OF STUDENT LOAN**  
11 **REPAYMENT.**

12 An affected individual who is a borrower of a quali-  
13 fied student loan or a qualified parent loan shall be grant-  
14 ed a deferment, not in excess of 6 months, during which  
15 periodic installments of principal need not be paid, and  
16 interest—

17 (1) shall accrue and be paid by the Secretary,  
18 in the case of a loan made under section 428, 428B,  
19 428C, or 428H of the Act;

20 (2) shall accrue and be paid by the Secretary  
21 to the Perkins loan fund held by the institution of  
22 higher education that made the loan, in the case of  
23 a loan made under part E of title IV of the Act; and

24 (3) shall not accrue, in the case of a Federal  
25 Direct Loan made under part D of such title.

1 **SEC. 2146. NO AFFECT ON GRANT AND LOAN LIMITS.**

2 Notwithstanding any provision of title IV of the Act  
3 or any regulation issued thereunder, no grant or loan  
4 funds received by an affected student under title IV of  
5 the Act for a cancelled enrollment period shall be counted  
6 against such affected student's annual or aggregate grant  
7 or loan limits for the receipt of grants or loans under that  
8 title.

9 **SEC. 2147. TEACHER LOAN RELIEF.**

10 The Secretary of Education may waive the require-  
11 ment of sections 428J(b)(1) and 460(b)(1)(A) of the  
12 Higher Education Act of 1965 that the 5 years of quali-  
13 fying service be consecutive academic years for any teach-  
14 er whose employment was interrupted if—

15 (1) the teacher was employed in qualifying serv-  
16 ice, at the time of a Gulf hurricane disaster, in a  
17 school located in an area affected by a Gulf hurri-  
18 cane disaster; and

19 (2) the teacher resumes qualifying service not  
20 later than the beginning of academic year 2006–  
21 2007 in that school or any other school in which em-  
22 ployment is qualifying service under such section.

23 **SEC. 2148. EXPANDING INFORMATION DISSEMINATION RE-**  
24 **GARDING ELIGIBILITY FOR PELL GRANTS.**

25 (a) IN GENERAL.—The Secretary of Education shall  
26 make special efforts, in conjunction with State efforts, to

1 notify affected students and if applicable, their parents,  
2 who qualify for means-tested Federal benefit programs, of  
3 their potential eligibility for a maximum Pell Grant, and  
4 shall disseminate such informational materials as the Sec-  
5 retary of Education deems appropriate.

6 (b) MEANS-TESTED FEDERAL BENEFIT PRO-  
7 GRAM.—For the purpose of this section, the term “means-  
8 tested Federal benefit program” means a mandatory  
9 spending program of the Federal Government, other than  
10 a program under the Act, in which eligibility for the pro-  
11 gram’s benefits, or the amount of such benefits, or both,  
12 are determined on the basis of income or resources of the  
13 individual or family seeking the benefit, and may include  
14 such programs as the supplemental security income pro-  
15 gram under title XVI of the Social Security Act, the food  
16 stamp program under the Food Stamp Act of 1977, the  
17 free and reduced price school lunch program established  
18 under the Richard B. Russell National School Lunch Act,  
19 the temporary assistance to needy families program estab-  
20 lished under part A of title IV of the Social Security Act,  
21 and the women, infants, and children program established  
22 under section 17 of the Child Nutrition Act of 1966, and  
23 other programs identified by the Secretary of Education.

1 **SEC. 2149. PROCEDURES.**

2 (a) DEADLINES AND PROCEDURES.—Sections 482(c)  
3 and 492 of the Act (20 U.S.C. 1089(c), 1098a) shall not  
4 apply to any waivers, modifications, or actions initiated  
5 by the Secretary of Education under this part.

6 (b) CASE-BY-CASE BASIS.—The Secretary of Edu-  
7 cation is not required to exercise any waiver or modifica-  
8 tion authority under this part on a case-by-case basis.

9 **SEC. 2150. TERMINATION OF AUTHORITY.**

10 The authority of the Secretary of Education to issue  
11 waivers or modifications under this part shall expire at  
12 the conclusion of the 2005–2006 academic year, but the  
13 expiration of such authority shall not affect the continuing  
14 validity of any such waivers or modifications after such  
15 academic year.

16 **SEC. 2151. DEFINITIONS.**

17 For the purposes of this part, the following terms  
18 have the following meanings:

19 (1) AFFECTED INDIVIDUAL.—The term “af-  
20 fected individual” means an individual who has ap-  
21 plied for or received student financial assistance  
22 under title IV of the Higher Education Act of 1965,  
23 and—

24 (A) who is an affected student; or

1 (B) whose primary place of employment or  
2 residency was, as of August 29, 2005, in an  
3 area affected by a Gulf hurricane disaster.

4 (2) AFFECTED INSTITUTION.—The term “af-  
5 fected institution” means an institution of higher  
6 education that—

7 (A) is located in an area affected by a Gulf  
8 hurricane disaster; and

9 (B) has temporarily ceased operations as a  
10 consequence of a Gulf hurricane disaster, as de-  
11 termined by the Secretary of Education.

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

15 (4) AFFECTED STUDENT.—The term “affected  
16 student” means an individual who has applied for or  
17 received student financial assistance under title IV  
18 of the Higher Education Act of 1965, and who—

19 (A) was enrolled or accepted for enroll-  
20 ment, as of August 29, 2005, at an institution  
21 of higher education in an area affected by a  
22 Gulf hurricane disaster;

23 (B) was a dependent student enrolled or  
24 accepted for enrollment at an institution of  
25 higher education that is not in an area affected

1 by a Gulf hurricane disaster, but whose parents  
2 resided or were employed, as of August 29,  
3 2005, in an area affected by a Gulf hurricane  
4 disaster; or

5 (C) was enrolled or accepted for enrollment  
6 at an institution of higher education, as of Au-  
7 gust 29, 2005, and whose attendance was inter-  
8 rupted because of a Gulf hurricane disaster.

9 (5) AREA AFFECTED BY A GULF HURRICANE  
10 DISASTER.—The term “area affected by a Gulf hur-  
11 ricane disaster” means a county or parish, in an af-  
12 fected State, that has been designated by the Fed-  
13 eral Emergency Management Agency for disaster as-  
14 sistance for individuals and households as a result of  
15 Hurricane Katrina or Hurricane Rita.

16 (6) CANCELLED ENROLLMENT PERIOD.—The  
17 term “cancelled enrollment period” means any pe-  
18 riod of enrollment at an affected institution during  
19 the academic year 2005.

20 (7) GULF HURRICANE DISASTER.—The term  
21 “Gulf hurricane disaster” means a major disaster  
22 that the President declared to exist, in accordance  
23 with section 401 of the Robert T. Stafford Disaster  
24 Relief and Emergency Assistance Act, and that was  
25 caused by Hurricane Katrina or Hurricane Rita.

1           (8) INSTITUTION OF HIGHER EDUCATION.—The  
2 term “institution of higher education” has the  
3 meaning given such term in section 102 of the High-  
4 er Education Act of 1965, except that the term does  
5 not include institutions under subsection (a)(1)(C)  
6 of that section.

7           (9) QUALIFIED STUDENT LOAN.—The term  
8 “qualified student loan” means any loan made, in-  
9 sured, or guaranteed under part B, D, or E of title  
10 IV of the Higher Education Act of 1965, other than  
11 a loan under section 428B of such title or a Federal  
12 Direct Plus loan.

13           (10) QUALIFIED PARENT LOAN.—The term  
14 “qualified parent loan” means a loan made under  
15 section 428B of title IV of the Higher Education  
16 Act of 1965 or a Federal Direct Plus loan.

## 17           **Subtitle C—Pensions**

### 18   **SEC. 2201. INCREASES IN PBGC PREMIUMS.**

19           (a) FLAT-RATE PREMIUMS.—Clause (i) of section  
20 4006(a)(3)(A) of the Employee Retirement Income Secu-  
21 rity Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended  
22 by striking “\$19” and inserting “\$30”.

23           (b) ADJUSTMENT FOR INFLATION.—Paragraph (3)  
24 of section 4006(a) of such Act (29 U.S.C. 1306(a)) is

1 amended by adding at the end the following new subpara-  
2 graph:

3 “(F) For each plan year beginning after 2006, there  
4 shall be substituted for the \$30 dollar amount in subpara-  
5 graph (A)(i) the amount equal to the product derived by  
6 multiplying the premium rate, as in effect under this para-  
7 graph immediately prior to such plan year for basic bene-  
8 fits guaranteed by the corporation under section 4022 for  
9 single-employer plans, by the ratio of—

10 “(i) the national average wage index (as defined  
11 in section 209(k)(1) of the Social Security Act) for  
12 the first of the 2 calendar years preceding the cal-  
13 endar year in which such plan year begins, to

14 “(ii) the national average wage index (as so de-  
15 fined) for the first of the 3 calendar years preceding  
16 the calendar year in which the plan year begins,  
17 with such product, if not a multiple of \$1, being rounded  
18 to the next higher multiple of \$1 where such product is  
19 a multiple of \$0.50 but not of \$1, and to the nearest mul-  
20 tiple of \$1 in any other case.”.

21 (c) ADDITIONAL DISCRETIONARY INCREASE.—Para-  
22 graph (3) of section 4006(a) of such Act (as amended by  
23 subsection (b) of this section) is further amended by add-  
24 ing 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  
4 otherwise in effect under this section for basic benefits  
5 guaranteed by it under section 4022 for single-employer  
6 plans if the corporation determines that such increase is  
7 necessary to achieve actuarial soundness in the plan termi-  
8 nation insurance 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  
13 premium rate, in effect under this paragraph for plan  
14 years commencing with or during such calendar year for  
15 basic benefits guaranteed by the corporation under section  
16 4022 for single-employer plans, as determined for plan  
17 years commencing with or during such calendar year with-  
18 out regard 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

1 year, subject to Congressional review under chapter  
2 8 of title 5 of the United States Code (relating to  
3 Congressional review of agency rulemaking) not later  
4 than 120 calendar days after the beginning of the  
5 preceding calendar year, and

6 “(II) a joint resolution disapproving such in-  
7 crease has not been enacted as provided in section  
8 802 of such title, within the 60-day period described  
9 in section 802(a) of such title.

10 The proposal transmitted by the corporation shall include  
11 a description of the methodologies and assumptions used  
12 in formulating its proposal. At the time of the transmittal  
13 of any such proposal to each House of the Congress pursu-  
14 ant to subclause (I), the corporation shall transmit a copy  
15 of 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  
21 is a major rule.”.

22 (d) PREMIUM RATE FOR CERTAIN TERMINATED SIN-  
23 GLE-EMPLOYER PLANS.—Subsection (a) of section 4006  
24 of such Act (29 U.S.C. 1306) is amended by adding at  
25 the end the following:

1       “(7) PREMIUM RATE FOR CERTAIN TERMINATED  
2 SINGLE-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 ap-  
7 plicable 12-month period, a premium at a rate equal  
8 to \$1,250 multiplied by the number of individuals  
9 who were participants in the plan immediately before  
10 the termination date. Such premium shall be in ad-  
11 dition to any other premium under this section.

12           “(B) SPECIAL RULE FOR PLANS TERMINATED  
13 IN BANKRUPTCY REORGANIZATION.—If the plan is  
14 terminated under 4041(c)(2)(B)(ii) or under section  
15 4042 and, as of the termination date, a person who  
16 is (as of such date) a contributing sponsor of the  
17 plan or a member of such sponsor’s controlled group  
18 has filed or has had filed against such person a peti-  
19 tion seeking reorganization in a case under title 11  
20 of the United States Code, or under any similar law  
21 of a State or a political subdivision of a State (or  
22 a case described in section 4041(c)(2)(B)(i) filed by  
23 or against such person has been converted, as of  
24 such date, to such a case in which reorganization is  
25 sought), subparagraph (A) shall not apply to such

1 plan until the date of the discharge of such person  
2 in such case.

3 “(C) APPLICABLE 12-MONTH PERIOD.—For  
4 purposes of subparagraph (A)—

5 “(i) IN GENERAL.—The term ‘applicable  
6 12-month period’ means—

7 “(I) the 12-month period beginning  
8 with the first month following the month  
9 in which the termination date occurs, and

10 “(II) each of the first two 12-month  
11 periods immediately following the period  
12 described in subclause (I).

13 “(ii) PLANS TERMINATED IN BANKRUPTCY  
14 REORGANIZATION.—In any case in which the  
15 requirements of subparagraph (B) are met in  
16 connection with the termination of the plan  
17 with respect to 1 or more persons described in  
18 such subparagraph, the 12-month period de-  
19 scribed in clause (i)(I) shall be the 12-month  
20 period beginning with the first month following  
21 the month which includes the earliest date as of  
22 which each such person is discharged in the  
23 case described in such clause in connection with  
24 such person.

25 “(D) COORDINATION WITH SECTION 4007.—

1 “(i) Notwithstanding section 4007—

2 “(I) premiums under this paragraph  
3 shall be due within 30 days after the be-  
4 ginning of any applicable 12-month period,  
5 and

6 “(II) the designated payor shall be the  
7 person who is the contributing sponsor as  
8 of immediately before the termination date.

9 “(ii) The fifth sentence of section 4007(a)  
10 shall not apply in connection with premiums de-  
11 termined under this paragraph.”.

12 (e) CONFORMING AMENDMENTS.—

13 (1) Section 4006(a)(2) of such Act (29 U.S.C.  
14 1306(a)(2)) is amended, in the matter following sub-  
15 paragraph (E), by inserting “paragraph (3)(G) of  
16 this subsection or” after “Except as provided in”.

17 (2) Section 4006(b)(1) of such Act (29 U.S.C.  
18 1306(b)(1)) is amended by inserting “or a proposal  
19 for a premium rate increase under subsection  
20 (a)(3)(G)” after “or (E)”.

21 (f) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as otherwise pro-  
23 vided in this subsection, the amendments made by  
24 this section shall apply to plan years beginning after  
25 December 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  
5 subsection (d) shall apply with respect to termi-  
6 nations for which the termination date occurs  
7 on or after the date of the enactment of this  
8 Act.

9           (B) TREATMENT OF CASES IN BANK-  
10 RUPTCY.—In any case in which the require-  
11 ments of subparagraph (B) of section  
12 4007(a)(7) of the Employee Retirement Income  
13 Security Act of 1974 (as added by subsection  
14 (d)) are met in connection with the termination  
15 of the plan with respect to 1 or more persons  
16 described in such subparagraph, the amend-  
17 ment made by subsection (d) shall apply with  
18 respect to any such termination described in  
19 such subparagraph (B), notwithstanding sub-  
20 paragraph (A) of this paragraph, if the case  
21 under title 11, United States Code, or under  
22 any similar law of a State or political subdivi-  
23 sion of a State (referred to in such subpara-  
24 graph (B)) commenced after October 26, 2005.

1           (3) SPECIAL RULE IF SUBSEQUENT SAVINGS  
2           ENACTED.—The amendments made by this section  
3           shall not take effect if, after the date of enactment  
4           of this Act and before January 1, 2006, a Federal  
5           law is enacted which—

6                   (A) provides for decreases in Federal out-  
7                   lays which in the aggregate are less than the  
8                   decreases in Federal outlays by reason of the  
9                   amendments made by this section; and

10                   (B) specifically provides that such de-  
11                   creases are to be in lieu of the decreases in  
12                   Federal outlays by reason of the amendments  
13                   made by this section.

14                   **TITLE III—COMMITTEE ON**  
15                   **ENERGY AND COMMERCE**

                  Subtitle A—Medicaid

Sec. 3100. Short title of subtitle; rule of construction with regard to Katrina evacuees.

                  CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

Sec. 3101. Federal upper limit (FUL).

Sec. 3102. Collection and submission of utilization data for certain physician administered drugs.

Sec. 3103. Improved regulation of drugs sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act.

Sec. 3104. Children’s hospital participation in section 340B drug discount program.

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 income before assets in providing support of community spouse.
- Sec. 3114. Disqualification for long-term care assistance for individuals with substantial 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 CON-**  
 3                   **STRUCTION WITH REGARD TO KATRINA**  
 4                   **EVACUEES.**

5           (a) **SHORT TITLE.**—This subtitle may be cited as the  
 6 “Medicaid Reconciliation Act of 2005”.

7           (b) **RULE OF CONSTRUCTION WITH REGARD TO**  
 8 **KATRINA EVACUEES.**—None of the provisions of the fol-  
 9 lowing chapters of this subtitle shall apply during the 11-  
 10 month period beginning September 1, 2005, to individuals  
 11 entitled to medical assistance under title XIX of the Social  
 12 Security Act by reason of their residence in a parish in  
 13 the State of Louisiana, or a county in the State of Mis-  
 14 sissippi or Alabama, for which a major disaster has been  
 15 declared in accordance with section 401 of the Robert T.  
 16 Stafford Disaster Relief and Emergency Assistance Act  
 17 (42 U.S.C. 5170) as a result of Hurricane Katrina and  
 18 which the President has determined, before September 14,  
 19 2005, warrants individual and public assistance from the  
 20 Federal 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  
14 the Federal upper limit for that drug estab-  
15 lished 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  
3           (5), the Federal upper limit established under  
4           this 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  
10                  RAMP (as determined under subparagraph  
11                  (C)) for 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 deter-  
16           mines that there are sufficient data to compile  
17           the volume weighted average RAMP for that  
18           drug.

19           “(B) RAMP AND RELATED PROVISIONS.—  
20           For purposes of this subsection:

21                   “(i) RAMP DEFINED.—The term  
22                   ‘RAMP’ means, with respect to a covered  
23                   outpatient drug by a manufacturer for a  
24                   calendar quarter and subject to clauses (ii)  
25                   and (iii), the average price paid to a manu-

1            manufacturer for the drug in the United States  
2            in the quarter by wholesalers for drugs dis-  
3            tributed to retail pharmacies, excluding  
4            service fees that are paid by the manufac-  
5            turer to an entity and that represent fair  
6            market value for a bona-fide service pro-  
7            vided by the entity.

8            “(ii) SALES EXEMPTED FROM COM-  
9            PUTATION.—The RAMP under clause (i)  
10           shall exclude any of the following:

11                    “(I) Sales exempt from inclusion  
12                    in the determination of best price  
13                    under subsection (c)(1)(C)(i).

14                    “(II) Such other sales as the Sec-  
15                    retary identifies as sales to an entity  
16                    that are merely nominal in amount  
17                    under subsection (c)(1)(C)(ii)(III).

18            “(iii) SALE PRICE NET OF DIS-  
19            COUNTS.—In calculating the RAMP under  
20            clause (i), such RAMP shall include any of  
21            the following:

22                    “(I) Cash discounts and volume  
23                    discounts.

24                    “(II) Free goods that are contin-  
25                    gent upon any purchase requirement.

1                   “(III) Sales at a nominal price  
2                   that are contingent upon any pur-  
3                   chase 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 prod-  
4 ucts (for each National Drug Code as-  
5 signed to 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  
15 drug products.

16 “(D) EXCEPTION FOR INITIAL SALES PE-  
17 RIODS.—

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 manufac-  
23 turer to compute the RAMP or the volume  
24 weighted average RAMP under subpara-  
25 graph (C), the Federal upper limit for the

1 ingredient cost of such drug during such  
2 period shall be the wholesale acquisition  
3 cost (as defined in clause (ii)) for the drug.

4 “(ii) WHOLESALE ACQUISITION  
5 COST.—For purposes of clause (i), the  
6 term ‘wholesale acquisition cost’ means,  
7 with respect to a single source drug, the  
8 manufacturer’s list price for the drug to  
9 wholesalers or direct purchasers in the  
10 United States, not including prompt pay or  
11 other discounts, rebates or reductions in  
12 price, for the most recent month for which  
13 the information is available, as reported in  
14 wholesale price guides or other publications  
15 of drug or biological pricing data.

16 “(E) UPDATES; DATA COLLECTION.—

17 “(i) FREQUENCY OF DETERMINA-  
18 TION.—The Secretary shall update the  
19 Federal 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 CON-  
7 TRACTS.—The Secretary may enter into con-  
8 tracts with appropriate entities to determine  
9 RAMPs and other data necessary to calculate  
10 the Federal upper limit for a covered outpatient  
11 drug established under this subsection and to  
12 calculate that payment limit.

13 “(3) DISPENSING FEES.—

14 “(A) IN GENERAL.—A State which pro-  
15 vides medical assistance for covered outpatient  
16 drugs shall pay a dispensing fee for each cov-  
17 ered outpatient drug in accordance with this  
18 paragraph. A State may vary the amount of  
19 such dispensing fees, including taking into ac-  
20 count the special circumstances of pharmacies  
21 that are serving rural or underserved areas or  
22 that are sole community pharmacies, so long as  
23 such variation is consistent with subparagraph  
24 (B).

1           “(B) DISPENSING FEE PAYMENT FOR  
2           MULTIPLE SOURCE DRUGS.—A State shall es-  
3           tablish a dispensing fee under this title for a  
4           covered outpatient drug that is treated as a  
5           multiple source drug under paragraph (2)(A)  
6           (whether or not it may be an innovator multiple  
7           source drug) in an amount that is not less than  
8           \$8 per prescription unit. The Secretary shall  
9           define what constitutes a prescription unit for  
10          purposes of the previous sentence.

11          “(4) EFFECT ON STATE MAXIMUM ALLOWABLE  
12          COST LIMITATIONS.—This section shall not super-  
13          sede or affect provisions in effect prior to January  
14          1, 1991, or after December 31, 1994, relating to  
15          any maximum allowable cost limitation established  
16          by a State for payment by the State for covered out-  
17          patient drugs, and rebates shall be made under this  
18          section without regard to whether or not payment by  
19          the State for such drugs is subject to such a limita-  
20          tion or the amount of such a limitation.

21          “(5) EVALUATION OF USE OF RETAIL SURVEY  
22          PRICE METHODOLOGY.—

23                 “(A) IN GENERAL.—The Secretary may  
24                 develop a methodology to set the Federal upper  
25                 limit based on the reported retail survey price,

1 as most recently reported under subparagraph  
2 (C), instead of a percentage of RAMP or vol-  
3 ume weighted average RAMP as described in  
4 paragraph (2).

5 “(B) INITIAL APPLICATION.—For 2007,  
6 the Secretary may use this methodology for a  
7 limited number of covered outpatient drugs, in-  
8 cluding both single source and multiple source  
9 drugs, selected by the Secretary in a manner so  
10 as to be representative of the classes of drugs  
11 dispensed under this title.

12 “(C) DETERMINATION OF RETAIL SURVEY  
13 PRICE FOR COVERED OUTPATIENT DRUGS.—

14 “(i) USE OF VENDOR.—The Secretary  
15 may contract services for the determina-  
16 tion of retail survey prices for covered out-  
17 patient drugs that represent a nationwide  
18 average of pharmacy sales costs for such  
19 drugs, net of all discounts and rebates.  
20 Such a contract shall be awarded for a  
21 term of 2 years.

22 “(ii) USE OF COMPETITIVE BID-  
23 DING.—In contracting for such services,  
24 the Secretary shall competitively bid for an

1 outside vendor that has a demonstrated  
2 history in—

3 “(I) surveying and determining,  
4 on a representative nationwide basis,  
5 retail prices for ingredient costs of  
6 prescription drugs;

7 “(II) working with retail phar-  
8 macies, commercial payers, and States  
9 in obtaining and disseminating such  
10 price information; and

11 “(III) collecting and reporting  
12 such price information on at least a  
13 monthly basis.

14 “(iii) ADDITIONAL PROVISIONS.—A  
15 contract with a vendor under this subpara-  
16 graph shall include such terms and condi-  
17 tions as the Secretary shall specify, includ-  
18 ing the following:

19 “(I) The vendor must monitor  
20 the marketplace and report to the  
21 Secretary each time there is a new  
22 covered outpatient drug available na-  
23 tionwide.

24 “(II) The vendor must update  
25 the Secretary no less often than

1 monthly on the retail survey prices for  
2 multiple source drugs.

3 “(III) The vendor must apply  
4 methods for independently confirming  
5 retail survey prices.

6 “(iv) AVAILABILITY OF INFORMATION  
7 TO STATES.—Information on retail survey  
8 prices obtained under this subparagraph,  
9 including applicable information on single  
10 source drugs, shall be provided to States  
11 on an ongoing, timely basis.

12 “(D) STATE USE OF RETAIL SURVEY  
13 PRICE DATA.—

14 “(i) DISTRIBUTION OF PRICE DATA.—  
15 The Secretary shall devise and implement  
16 a means for electronic distribution to each  
17 State agency designated under section  
18 1902(a)(5) with responsibility for the ad-  
19 ministration or supervision of the adminis-  
20 tration of the State plan under this title of  
21 the retail survey price determined under  
22 this paragraph.

23 “(ii) AUTHORITY TO ESTABLISH PAY-  
24 MENT RATES BASED ON DATA.—A State  
25 may use the price data received in accord-

1           ance with clause (i) in establishing pay-  
2           ment rates for the ingredient costs and dis-  
3           pensing fees for covered outpatient drugs  
4           dispensed to individuals eligible for medical  
5           assistance under this title.

6           “(6) LIMITATION ON JUDICIAL REVIEW.—There  
7           shall be no administrative or judicial review of—

8                   “(A) the Secretary’s determinations of  
9                   Federal upper limits, RAMPs, and volume  
10                  weighted average RAMPs under this subsection,  
11                  including the assignment of National Drug  
12                  Codes to billing and payment classes;

13                   “(B) the Secretary’s disclosure to States of  
14                   the average manufacturer prices, RAMPs, vol-  
15                   ume weighted average RAMPs, and retail sur-  
16                   vey prices;

17                   “(C) determinations under this subsection  
18                   by the Secretary of covered outpatient drugs  
19                   which are dispensed by a specialty pharmacy or  
20                   administered by a physician in a physician’s of-  
21                   fice;

22                   “(D) the contracting and calculations proc-  
23                   ess under this subsection; and

1           “(E) the method to allocate rebates,  
2           chargebacks, and other price concessions to a  
3           quarter if specified by the Secretary.”.

4           (b) CONFORMING AMENDMENTS.—

5           (1) REPORTING RAMP-RELATED INFORMA-  
6           TION.—Subsection (b)(3)(A) of such section is  
7           amended—

8                   (A) by striking “and” at the end of clause  
9                   (ii);

10                   (B) by striking the period at the end of  
11                   clause (iii) and inserting “; and”; and

12                   (C) by inserting after clause (iii) the fol-  
13                   lowing new clause:

14                           “(iv) for calendar quarters beginning on or  
15                           after July 1, 2006, in conjunction with report-  
16                           ing required under clause (i) and by National  
17                           Drug Code (including package size)—

18                                   “(I) the manufacturer’s RAMP (as  
19                                   defined in subsection (e)(2)(B)(i)) and the  
20                                   total number of units required to compute  
21                                   the volume weighted average RAMP under  
22                                   subsection (e)(2)(C);

23                                   “(II) if required to make payment  
24                                   under subsection (e)(2)(D), the manufac-

1           turer’s wholesale acquisition cost, as de-  
2           fined in clause (ii) of such subsection; and  
3           “(III) information on those sales that  
4           were made at a nominal price or otherwise  
5           described in subsection (e)(2)(B)(ii)(II);  
6           for all covered outpatient drugs.”.

7           (2) DISCLOSURE TO STATES.—Subsection  
8           (b)(3)(D) of such section is amended—

9           (A) by striking “and” at the end of clause  
10          (ii);

11          (B) by striking the period at the end of  
12          clause (iii) and inserting “, and”; and

13          (C) by inserting after clause (iii) the fol-  
14          lowing new clause:

15                 “(iv) to States to carry out this  
16                 title.”.

17           (3) LIMITATIONS ON FEDERAL FINANCIAL PAR-  
18           TICIPATION.—Section 1903(i) of such Act (42  
19           U.S.C. 1396b(i)) is amended—

20           (A) in paragraph (10)(A), by striking  
21           “and” at the end;

22           (B) in paragraph (10)(B), by striking “or”  
23           at the end and inserting “and”;

24           (C) by adding at the end of paragraph  
25           (10) the following:

1           “(C) with respect to any amount expended for  
2           the ingredient cost of a covered outpatient drug that  
3           exceeds the Federal upper limit for that drug estab-  
4           lished and applied under section 1927(e); or”;

5           (D) in paragraph (21), as inserted by sec-  
6           tion 104(b) of Public Law 109–91, by inserting  
7           before the period at the end the following: “or  
8           described in subparagraph (B) or (C) of section  
9           1927(d)(2)”.

10          (c) EFFECTIVE DATE.—Except as otherwise pro-  
11          vided, the amendments made by this section take effect  
12          with respect to a State on the later of—

13               (1) January 1, 2007; or

14               (2) the date that is 6 months after the close of  
15          the first regular session of the State legislature that  
16          begins after the date of the enactment of this Act.

17          (d) GAO STUDY ON DISPENSING FEES.—The Comp-  
18          troller General of the United States shall conduct a study  
19          on the appropriateness in payment levels to pharmacies  
20          for dispensing fees under the medicaid program, including  
21          payment to specialty pharmacies. Not later than 9 months  
22          after the date of the enactment of this Act, the Comp-  
23          troller General shall submit to Congress a report on such  
24          study.

1 (e) IG REPORT ON USE OF RAMP AND RETAIL SUR-  
2 VEY PRICES.—Not later than 2 years after the date of  
3 the enactment of this Act, the Inspector General of the  
4 Department of Health and Human Services shall submit  
5 to Congress a report on the appropriateness of using  
6 RAMPs and retail survey prices, rather than the average  
7 manufacturer prices or other price measures, as the basis  
8 for establishing a Federal upper limit for reimbursement  
9 for covered outpatient drugs under the medicaid program.

10 **SEC. 3102. COLLECTION AND SUBMISSION OF UTILIZATION**

11 **DATA FOR CERTAIN PHYSICIAN ADMINIS-**  
12 **TERED DRUGS.**

13 (a) IN GENERAL.—Section 1927(a) of the Social Se-  
14 curity Act (42 U.S.C. 1396r–8(a)) is amended by adding  
15 at the end the following new paragraph:

16 “(7) REQUIREMENT FOR SUBMISSION OF UTILI-  
17 ZATION DATA FOR CERTAIN PHYSICIAN ADMINIS-  
18 TERED DRUGS.—

19 “(A) SINGLE SOURCE DRUGS.—In order  
20 for payment to be available under section  
21 1903(a) for a covered outpatient drug that is a  
22 single source drug that is physician adminis-  
23 tered (as determined by the Secretary), and  
24 that is administered on or after January 1,  
25 2006, the State shall provide for the submission

1 of such utilization data and coding (such as J-  
2 codes and National Drug Code numbers) for  
3 each such drug as the Secretary may specify as  
4 necessary to identify the manufacturer of the  
5 drug in order to secure rebates under this sec-  
6 tion for drugs administered for which payment  
7 is made under this title.

8 “(B) MULTIPLE SOURCE DRUGS.—

9 “(i) IN GENERAL.—Not later than  
10 January 1, 2007, the information shall be  
11 submitted under subparagraph (A) using  
12 National Drug Code codes unless the Sec-  
13 retary specifies that an alternative coding  
14 system should be used.

15 “(ii) IDENTIFICATION OF MOST FRE-  
16 QUENTLY PHYSICIAN ADMINISTERED MUL-  
17 TIPLE SOURCE DRUGS.—Not later than  
18 January 1, 2007, the Secretary shall pub-  
19 lish a list of the 20 physician administered  
20 multiple source drugs that the Secretary  
21 determines have the highest dollar volume  
22 of physician administered drugs dispensed  
23 under this title. The Secretary may modify  
24 such list from year to year to reflect  
25 changes in such volume.

1           “(iii) REQUIREMENT.—In order for  
2           payment to be available under section  
3           1903(a) for a covered outpatient drug that  
4           is a multiple source drug that is physician  
5           administered (as determined by the Sec-  
6           retary), that is on the list published under  
7           clause (ii), and that is administered on or  
8           after January 1, 2008, the State shall pro-  
9           vide for the submission of such utilization  
10          data and coding (such as J-codes and Na-  
11          tional Drug Code numbers) for each such  
12          drug as the Secretary may specify as nec-  
13          essary to identify the manufacturer of the  
14          drug in order to secure rebates under this  
15          section.

16          “(C) HARDSHIP WAIVER.—The Secretary may  
17          delay the application of subparagraph (A) or (B), or  
18          both, in the case of a State to prevent hardship to  
19          States which require additional time to implement  
20          the reporting system required under the respective  
21          subparagraph.”.

22          (b) LIMITATION ON PAYMENT.—Section 1903(i)(10)  
23          of such Act (42 U.S.C. 1396b(i)(10)), as amended by sec-  
24          tion 3101(b)(3), is amended—

1 (1) by striking “and” at the end of subpara-  
2 graph (B);

3 (2) by striking “or” at the end of subparagraph  
4 (C) and inserting “and”; and

5 (3) by adding at the end the following new sub-  
6 paragraph:

7 “(D) with respect to covered outpatient drugs  
8 described in section 1927(a)(7), unless information  
9 respecting utilization data and coding on such drugs  
10 that is required to be submitted under such section  
11 is submitted in accordance with such section; or”.

12 **SEC. 3103. IMPROVED REGULATION OF DRUGS SOLD**  
13 **UNDER A NEW DRUG APPLICATION AP-**  
14 **PROVED UNDER SECTION 505(c) OF THE FED-**  
15 **ERAL FOOD, DRUG, AND COSMETIC ACT.**

16 (a) INCLUSION WITH OTHER REPORTED AVERAGE  
17 MANUFACTURER AND BEST PRICES.—Section  
18 1927(b)(3)(A) of the Social Security Act (42 U.S.C.  
19 1396r–8(b)(3)(A)) is amended—

20 (1) by striking clause (i) and inserting the fol-  
21 lowing:

22 “(i) not later than 30 days after the  
23 last day of each rebate period under the  
24 agreement—

1           “(I) on the average manufacturer  
2           price (as defined in subsection (k)(1))  
3           for covered outpatient drugs for the  
4           rebate period under the agreement  
5           (including for all such drugs that are  
6           sold under a new drug application ap-  
7           proved under section 505(c) of the  
8           Federal Food, Drug, and Cosmetic  
9           Act); and

10           “(II) for single source drugs and  
11           innovator multiple source drugs (in-  
12           cluding all such drugs that are sold  
13           under a new drug application ap-  
14           proved under section 505(c) of the  
15           Federal Food, Drug, and Cosmetic  
16           Act), on the manufacturer’s best price  
17           (as defined in subsection (e)(1)(C))  
18           for such drugs for the rebate period  
19           under the agreement;” and

20           (2) in clause (ii), by inserting “(including for  
21           such drugs that are sold under a new drug applica-  
22           tion approved under section 505(c) of the Federal  
23           Food, Drug, and Cosmetic Act)” after “drugs”.

24           (b) CONFORMING AMENDMENTS.—Section 1927 of  
25           such Act (42 U.S.C. 1396r–8) is amended—

1 (1) in subsection (c)(1)(C)—

2 (A) in clause (i), in the matter preceding  
3 subclause (I), by inserting after “or innovator  
4 multiple source drug of a manufacturer” the  
5 following: “(including any other such drug of a  
6 manufacturer that is sold under a new drug ap-  
7 plication approved under section 505(c) of the  
8 Federal Food, Drug, and Cosmetic Act)”; and

9 (B) in clause (ii)—

10 (i) in subclause (II), by striking  
11 “and” at the end;

12 (ii) in subclause (III), by striking the  
13 period at the end and inserting “; and”;  
14 and

15 (iii) by adding at the end the fol-  
16 lowing:

17 “(IV) in the case of a manufac-  
18 turer that approves, allows, or other-  
19 wise permits any other drug of the  
20 manufacturer to be sold under a new  
21 drug application approved under sec-  
22 tion 505(c) of the Federal Food,  
23 Drug, and Cosmetic Act, shall be in-  
24 clusive of the lowest price for such au-  
25 thorized drug available from the man-

1                    ufacturer during the rebate period to  
2                    any wholesaler, retailer, provider,  
3                    health maintenance organization, non-  
4                    profit entity, or governmental entity  
5                    within the United States, excluding  
6                    those prices described in subclauses  
7                    (I) through (IV) of clause (i).”; and

8                    (2) in subsection (k)—

9                    (A) in paragraph (1)—

10                   (i) by striking “The term” and insert-  
11                   ing the following:

12                   “(A) IN GENERAL.—The term”; and

13                   (ii) by adding at the end the fol-  
14                   lowing:

15                   “(B) INCLUSION OF SECTION 505(c)  
16                   DRUGS.—In the case of a manufacturer that  
17                   approves, allows, or otherwise permits any drug  
18                   of the manufacturer to be sold under a new  
19                   drug application approved under section 505(c)  
20                   of the Federal Food, Drug, and Cosmetic Act,  
21                   such term shall be inclusive of the average price  
22                   paid for such authorized drug by wholesalers  
23                   for drugs distributed to the retail pharmacy  
24                   class of trade, after deducting customary  
25                   prompt pay discounts.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 3104. CHILDREN’S HOSPITAL PARTICIPATION IN SEC-**  
5 **TION 340B DRUG DISCOUNT PROGRAM.**

6 (a) IN GENERAL.—Section 1927(a)(5)(B) of the So-  
7 cial Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amend-  
8 ed by inserting before the period at the end the following:  
9 “and a children’s hospital described in section  
10 1886(d)(1)(B)(iii) which meets the requirements of  
11 clauses (i) and (iii) of section 340B(b)(4)(L) of the Public  
12 Health Service Act and which would meet the require-  
13 ments of clause (ii) of such section if that clause were ap-  
14 plied by taking into account the percentage of care pro-  
15 vided by the hospital to patients eligible for medical assist-  
16 ance under a State plan under this title”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to drugs purchased on or after  
19 the date of the enactment of this Act.

20 **SEC. 3105. IMPROVING PATIENT OUTCOMES THROUGH**  
21 **GREATER RELIANCE ON SCIENCE AND BEST**  
22 **PRACTICES.**

23 (a) IN GENERAL.—Section 1927 of Social Security  
24 Act (42 U.S.C. 1396r–8) is amended—

25 (1) in subsection (d)(5)—

1 (A) in the matter before subparagraph (A),  
2 by striking “providing for such approval—” and  
3 inserting “providing for such approval meets  
4 the following requirements:”;

5 (B) in subparagraph (A)—

6 (i) by inserting “The system” before  
7 “provides”; and

8 (ii) by striking “; and” and inserting  
9 a period;

10 (C) in subparagraph (B)—

11 (i) by striking “except” and inserting  
12 “Except”; and

13 (ii) by inserting “the system” before  
14 “provides”; and

15 (D) by adding at the end the following new  
16 subparagraphs:

17 “(C) The system provides that an atypical  
18 antipsychotic or antidepressant single source  
19 drug may be placed on a list of drugs subject  
20 to prior authorization only where a drug use re-  
21 view board has determined, based on the  
22 strength of the scientific evidence and stand-  
23 ards of practice, including assessing peer-re-  
24 viewed medical literature, pharmacoeconomic  
25 studies, outcomes research data and such other

1 information as the board determines to be ap-  
2 propriate, that placing the drug on prior ap-  
3 proval or otherwise imposing restrictions on its  
4 use is not likely to harm patients or increase  
5 overall medical costs.

6 “(D) The system provides that where a re-  
7 sponse is not received to a request for author-  
8 ization of an atypical antipsychotic or  
9 antidepressant drug prescribed within 24 hours  
10 after the prescription is transmitted, payment is  
11 made for a 30 day supply of a medication that  
12 the prescriber certifies is medically necessary.”;  
13 and

14 (2) in subsection (g)(3)(C), by inserting after  
15 clause (iii) the following new clause:

16 “(iv) The development and oversight  
17 of prior authorization programs described  
18 in subsection (d)(5).”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall take effect on January 1, 2007.

1           **CHAPTER 2—REFORM OF ASSET**  
2                           **TRANSFER RULES**

3   **SEC. 3111. LENGTHENING LOOK-BACK PERIOD; CHANGE IN**  
4                           **BEGINNING DATE FOR PERIOD OF INELIGI-**  
5                           **BILITY.**

6           (a) LENGTHENING LOOK-BACK PERIOD FOR ALL  
7 DISPOSALS TO 5 YEARS.—Section 1917(c)(1)(B)(i) of the  
8 Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is  
9 amended by inserting “or in the case of any other disposal  
10 of assets made on or after the date of the enactment of  
11 the Medicaid Reconciliation Act of 2005” before “, 60  
12 months”.

13           (b) CHANGE IN BEGINNING DATE FOR PERIOD OF  
14 INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42  
15 U.S.C. 1396p(c)(1)(D)) is amended—

16                   (1) by striking “(D) The date” and inserting  
17                   “(D)(i) In the case of a transfer of asset made be-  
18                   fore the date of the enactment of the Medicaid Rec-  
19                   onciliation Act of 2005, the date”; and

20                   (2) by adding at the end the following new  
21                   clause:

22                   “(ii) In the case of a transfer of asset made on or  
23 after the date of the enactment of the Medicaid Reconcili-  
24 ation Act of 2005, the date specified in this subparagraph  
25 is the first day of a month during or after which assets

1 have been transferred for less than fair market value, or  
2 the date on which the individual is eligible for medical as-  
3 sistance under the State plan and is receiving services de-  
4 scribed in subparagraph (C) but for the application of the  
5 penalty period, whichever is later, and which does not  
6 occur during any other period of ineligibility under this  
7 subsection.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to transfers made on or after the  
10 date of the enactment of this Act.

11 (d) AVAILABILITY OF HARDSHIP WAIVERS.—Each  
12 State shall provide for a hardship waiver process in ac-  
13 cordance with section 1917(c)(2)(D) of the Social Security  
14 Act (42 U.S.C. 1396p(c)(2)(D))—

15 (1) under which an undue hardship exists when  
16 application of the transfer of assets provision would  
17 deprive the individual—

18 (A) of medical care such that the individ-  
19 ual’s health or life would be endangered; or

20 (B) of food, clothing, shelter, or other ne-  
21 cessities of life; and

22 (2) which provides for—

23 (A) notice to recipients that an undue  
24 hardship exception exists;

1 (B) a timely process for determining  
2 whether an undue hardship waiver will be  
3 granted; and

4 (C) a process under which an adverse de-  
5 termination can be appealed.

6 (e) ADDITIONAL PROVISIONS ON HARDSHIP WAIV-  
7 ERS.—

8 (1) APPLICATION BY FACILITY.—Section  
9 1917(c)(2) of the Social Security Act (42 U.S.C.  
10 1396p(c)(2)) is amended—

11 (A) by striking the semicolon at the end of  
12 subparagraph (D) and inserting a period; and

13 (B) by adding after and below such subpara-  
14 graph the following:

15 “The procedures established under subparagraph  
16 (D) shall permit the facility in which the institu-  
17 tionalized individual is residing to file an undue  
18 hardship waiver application on behalf of the indi-  
19 vidual with the consent of the individual or the legal  
20 guardian of the individual.”.

21 (2) AUTHORITY TO MAKE BED HOLD PAYMENTS  
22 FOR HARDSHIP APPLICANTS.—Such section is further  
23 amended by adding at the end the following: “While an  
24 application for an undue hardship waiver is pending under  
25 subparagraph (D) in the case of an individual who is a

1 resident of a nursing facility, if the application meets such  
2 criteria as the Secretary specifies, the State may provide  
3 for payments for nursing facility services in order to hold  
4 the bed for the individual at the facility, but not in excess  
5 of payments for 30 days.”.

6 **SEC. 3112. DISCLOSURE AND TREATMENT OF ANNUITIES**  
7 **AND OF LARGE TRANSACTIONS.**

8 (a) IN GENERAL.—Section 1917 of the Social Secu-  
9 rity Act (42 U.S.C. 1396p) is amended by redesignating  
10 subsection (e) as subsection (f) and by inserting after sub-  
11 section (d) the following new subsection:

12 “(e)(1) In order to meet the requirements of this sec-  
13 tion for purposes of section 1902(a)(18), a State shall re-  
14 quire, as a condition for the provision of medical assist-  
15 ance for services described in subsection (c)(1)(C)(i) (re-  
16 lating to long-term care services) for an individual, the ap-  
17 plication of the individual for such assistance (including  
18 any recertification of eligibility for such assistance) shall  
19 disclose the following:

20 “(A) A description of any interest the individual  
21 or community spouse has in an annuity (or similar  
22 financial instrument which provides for the conver-  
23 sion of a countable asset to a noncountable asset, as  
24 may be specified by the Secretary), regardless of

1       whether the annuity is irrevocable or is treated as an  
2       asset.

3               “(B) Full information (as specified by the Sec-  
4       retary) concerning any transaction involving the  
5       transfer or disposal of assets during the previous pe-  
6       riod of 60 months, if the transaction exceeded  
7       \$100,000, without regard to whether the transfer or  
8       disposal was for fair market value. For purposes of  
9       applying the previous sentence under this subsection,  
10      all transactions of \$5,000 or more occurring within  
11      a 12-month period shall be treated as a single trans-  
12      action. The dollar amounts specified in the first and  
13      second sentences of this subparagraph shall be in-  
14      creased, beginning with 2007, from year to year  
15      based on the percentage increase in the consumer  
16      price index for all urban consumers (all items;  
17      United States city average), rounded to the nearest  
18      \$1,000 in the case of the first sentence and \$100 in  
19      the case of the second sentence.

20   Such application or recertification form shall include a  
21   statement that under paragraph (2) the State becomes a  
22   remainder beneficiary under such an annuity or similar  
23   financial instrument by virtue of the provision of such  
24   medical assistance.

1           “(2)(A) In the case of any annuity in which an insti-  
2           tutionalized individual or community spouse has an inter-  
3           est, if medical assistance is furnished to the individual for  
4           services described in subsection (c)(1)(C)(i), by virtue of  
5           the provision of such assistance the State becomes the re-  
6           mainder beneficiary in the first position for the total  
7           amount of such medical assistance paid on behalf of the  
8           individual under this title (or, where there is a community  
9           spouse or minor or disabled child in such first position,  
10          in the position immediately succeeding the position of such  
11          spouse or child or both).

12          “(B) In the case of disclosure concerning an annuity  
13          under paragraph (1)(A), the State shall notify the issuer  
14          of the annuity of the right of the State under subpara-  
15          graph (A) as a preferred remainder beneficiary in the an-  
16          nuity for medical assistance furnished to the individual.  
17          Nothing in this paragraph shall be construed as pre-  
18          venting such an issuer from notifying persons with any  
19          other remainder interest of the State’s remainder interest  
20          under subparagraph (A).

21          “(C) In the case of such an issuer receiving notice  
22          under subparagraph (B), the State may require the issuer  
23          to notify the State when there is a change in the amount  
24          of income or principal being withdrawn from the amount  
25          that was being withdrawn at the time of the most recent

1 disclosure described in paragraph (1)(A). A State shall  
2 take such information into account in determining the  
3 amount of the State’s obligations for medical assistance  
4 or in the individual’s eligibility for such assistance.

5 “(3)(A) For purposes of subsection (c)(1), a trans-  
6 action described in paragraph (1)(B) shall be deemed as  
7 the transfer of an asset for less than fair market value  
8 unless the individual demonstrates to the satisfaction of  
9 the State that the transfer of the asset was for fair market  
10 value.

11 “(B) The Secretary may provide guidance to States  
12 on categories of arms length transactions (such as the pur-  
13 chase of a commercial annuity) that could be generally  
14 treated as a transfer of asset for fair market value.

15 “(4) Nothing in this subsection shall be construed as  
16 preventing a State from denying eligibility for medical as-  
17 sistance for an individual based on the income or resources  
18 derived from an annuity described in paragraph (1)(A).”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to transactions (including the pur-  
21 chase of an annuity) occurring on or after the date of the  
22 enactment of this Act.

1 **SEC. 3113. APPLICATION OF “INCOME-FIRST” RULE IN AP-**  
2 **PLYING COMMUNITY SPOUSE’S INCOME BE-**  
3 **FORE ASSETS IN PROVIDING SUPPORT OF**  
4 **COMMUNITY SPOUSE.**

5 (a) **IN GENERAL.**—Section 1924(d) of the Social Se-  
6 curity Act (42 U.S.C. 1396r–5(d)) is amended by adding  
7 at the end the following new paragraph:

8 “(6) **APPLICATION OF ‘INCOME FIRST’ RULE**  
9 **FOR FUNDING COMMUNITY SPOUSE MONTHLY IN-**  
10 **COME ALLOWANCE.**—For purposes of this subsection  
11 and subsection (e), any transfer or allocation made  
12 from an institutionalized spouse to meet the need of  
13 a community spouse for a community spouse month-  
14 ly income allowance under paragraph (1)(B) shall be  
15 first made from income of the institutionalized  
16 spouse and then only when the income is not avail-  
17 able from the resources of such institutionalized  
18 spouse.”.

19 (b) **EFFECTIVE DATE.**—The amendment made by  
20 subsection (a) shall apply to transfers and allocations  
21 made on or after the date of the enactment of this Act  
22 by individuals who become institutionalized spouses on or  
23 after such 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 Secu-  
5 rity Act, as amended by section 3112, is further amended  
6 by redesignating subsection (f) as subsection (g) and by  
7 inserting 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  
10 of an individual for medical assistance with respect to  
11 nursing facility services or other long-term care services,  
12 the individual shall not be eligible for such assistance if  
13 the individual’s equity interest in the individual’s home ex-  
14 ceeds \$500,000. The dollar amount specified in the pre-  
15 ceding sentence shall be increased, beginning with 2011,  
16 from year to year based on the percentage increase in the  
17 consumer price index for all urban consumers (all items;  
18 United States city average), rounded to the nearest  
19 \$1,000.

20 “(2) Paragraph (1) shall not apply with respect to  
21 an individual if—

22 “(A) the spouse of such individual, or

23 “(B) such individual’s child who is under age  
24 21, or (with respect to States eligible to participate  
25 in the State program established under title XVI) is  
26 blind or permanently and totally disabled, or (with



1           (2) by adding at the end of subparagraph (B)  
2           the following new clause:

3                           “(v) TREATMENT OF CONTINUING  
4                           CARE RETIREMENT COMMUNITIES ADMIS-  
5                           SION CONTRACTS.—Notwithstanding sub-  
6                           clause (II) of subparagraph (A)(i), subject  
7                           to subsections (c) and (d) of section 1924,  
8                           contracts for admission to a State licensed,  
9                           registered, certified, or equivalent con-  
10                          tinuing care retirement community or life  
11                          care community, including services in a  
12                          nursing facility that is part of such com-  
13                          munity, may require residents to spend on  
14                          their care resources declared for the pur-  
15                          poses of admission before applying for  
16                          medical assistance.”.

17           (b) TREATMENT OF ENTRANCE FEES.—Section  
18   1917 of such Act (42 U.S.C. 1396p), as amended by sec-  
19   tions 3112(a) and 3114(a), is amended by redesignating  
20   subsection (g) as subsection (h) and by inserting after  
21   subsection (f) the following new subsection:

22                           “(g) TREATMENT OF ENTRANCE FEES OF INDIVID-  
23                          UALS RESIDING IN CONTINUING CARE RETIREMENT  
24                          COMMUNITIES.—

1           “(1) IN GENERAL.—For purposes of deter-  
2           mining an individual’s eligibility for, or amount of,  
3           benefits under a State plan under this title, the rules  
4           specified in paragraph (2) shall apply to individuals  
5           residing in continuing care retirement communities  
6           or life care communities that collect an entrance fee  
7           on admission from such individuals.

8           “(2) TREATMENT OF ENTRANCE FEE.—For  
9           purposes of this subsection, an individual’s entrance  
10          fee in a continuing care retirement community or  
11          life care community shall be considered a resource  
12          available to the individual to the extent that—

13               “(A) the individual has the ability to use  
14               the entrance fee, or the contract provides that  
15               the entrance fee may be used, to pay for care  
16               should other resources or income of the indi-  
17               vidual be insufficient to pay for such care;

18               “(B) the individual is eligible for a refund  
19               of any remaining entrance fee when the indi-  
20               vidual dies or terminates the continuing care re-  
21               tirement community or life care community  
22               contract and leaves the community; and

23               “(C) the entrance fee does not confer an  
24               ownership interest in the continuing care retire-  
25               ment community or life care community.

1           “(3) TREATMENT IN RELATION TO SPOUSAL  
 2           SHARE.—To the extent that an entrance fee is deter-  
 3           mined to be an available resource to an individual  
 4           applying for medical assistance and the individual  
 5           has a community spouse as defined in section  
 6           1924(h), the entrance fee shall be considered in the  
 7           computation of spousal share pursuant to section  
 8           1924(e).”.

### 9           **CHAPTER 3—FLEXIBILITY IN COST**

#### 10           **SHARING AND BENEFITS**

##### 11           **SEC. 3121. STATE OPTION FOR ALTERNATIVE MEDICAID**

##### 12           **PREMIUMS AND COST SHARING.**

13           (a) IN GENERAL.—Title XIX of the Social Security  
 14           Act is amended by inserting after section 1916 the fol-  
 15           lowing new section:

16           “STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST  
 17           SHARING

18           “SEC. 1916A. (a) STATE FLEXIBILITY.—

19           “(1) IN GENERAL.—Notwithstanding sections  
 20           1916 and 1902(a)(10)(B), a State, at its option and  
 21           through a State plan amendment, may impose pre-  
 22           miums and cost sharing for any group of individuals  
 23           (as specified by the State) and for any type of serv-  
 24           ices (and may vary such premiums and cost sharing  
 25           among such groups or types, including through the  
 26           use of tiered cost sharing for prescription drugs)

1 consistent with the limitations established under this  
2 section. Nothing in this section shall be construed as  
3 superseding (or preventing the application of) sec-  
4 tion 1916(g).

5 “(2) DEFINITIONS.—In this section:

6 “(A) PREMIUM.—The term ‘premium’ in-  
7 cludes any enrollment fee or similar charge.

8 “(B) COST SHARING.—The term ‘cost  
9 sharing’ includes any deduction, deductible, co-  
10 payment, or similar charge.

11 “(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

12 “(1) INDIVIDUALS WITH FAMILY INCOME  
13 BELOW 100 PERCENT OF POVERTY LEVEL.—In the  
14 case of an individual whose family income does not  
15 exceed 100 percent of the Federal poverty level ap-  
16 plicable to a family of the size involved, subject to  
17 subsections (c)(2) and (e)(2)(A), the limitations oth-  
18 erwise provided under subsections (a) and (b) of sec-  
19 tion 1916 shall continue to apply and no premium  
20 will be imposed under the plan, except that the total  
21 annual aggregate amount of cost sharing imposed  
22 (including any increased cost sharing imposed under  
23 subsection (c) or (e)) for all individuals in the family  
24 may not exceed 5 percent of the family income of  
25 the family involved for the year involved.

1           “(2) INDIVIDUALS WITH FAMILY INCOME  
2 ABOVE 100 PERCENT OF POVERTY LEVEL.—In the  
3 case of an individual whose family income exceeds  
4 100 percent of the Federal poverty level applicable  
5 to a family of the size involved, the total annual ag-  
6 gregate amount of premiums and cost sharing im-  
7 posed (including any increase and cost sharing im-  
8 posed under subsection (c) or (e)) for all individuals  
9 in the family may not exceed 5 percent of the family  
10 income of the family involved for the year involved.

11           “(3) ADDITIONAL LIMITATIONS.—

12           “(A) PREMIUMS.—No premiums shall be  
13 imposed under this section with respect to the  
14 following:

15           “(i) Individuals under 18 years of age  
16 that are required to be provided medical  
17 assistance under section 1902(a)(10)(A)(i),  
18 and including individuals with respect to  
19 whom adoption or foster care assistance is  
20 made available under part E of title IV  
21 without regard to age.

22           “(ii) Pregnant women.

23           “(iii) Any terminally ill individual who  
24 is receiving hospice care (as defined in sec-  
25 tion 1905(o)).

1           “(iv) Any individual who is an inpa-  
2           tient in a hospital, nursing facility, inter-  
3           mediate care facility for the mentally re-  
4           tarded, or other medical institution, if such  
5           individual is required, as a condition of re-  
6           ceiving services in such institution under  
7           the State plan, to spend for costs of med-  
8           ical care all but a minimal amount of the  
9           individual’s income required for personal  
10          needs.

11          “(B) COST SHARING.—Subject to the suc-  
12          ceeding provisions of this section, no cost shar-  
13          ing shall be imposed under this section with re-  
14          spect to the following:

15               “(i) Services furnished to individuals  
16               under 18 years of age that are required to  
17               be provided medical assistance under sec-  
18               tion 1902(a)(10)(A)(i), and including serv-  
19               ices furnished to individuals with respect  
20               to whom adoption or foster care assistance  
21               is made available under part E of title IV  
22               without regard to age.

23               “(ii) Preventive services (such as well  
24               baby and well child care and immuniza-

1 tions) provided to children under 18 years  
2 of age regardless of family income.

3 “(iii) Services furnished to pregnant  
4 women, if such services relate to the preg-  
5 nancy or to any other medical condition  
6 which may complicate the pregnancy.

7 “(iv) Services furnished to a termi-  
8 nally ill individual who is receiving hospice  
9 care (as defined in section 1905(o)).

10 “(v) Services furnished to any indi-  
11 vidual who is an inpatient in a hospital,  
12 nursing facility, intermediate care facility  
13 for the mentally retarded, or other medical  
14 institution, if such individual is required,  
15 as a condition of receiving services in such  
16 institution under the State plan, to spend  
17 for costs of medical care all but a minimal  
18 amount of the individual’s income required  
19 for personal needs.

20 “(vi) Emergency services (as defined  
21 by the Secretary for purposes of section  
22 1916(a)(2)(D)).

23 “(vii) Family planning services and  
24 supplies described in section  
25 1905(a)(4)(C).

1           “(C) CONSTRUCTION.—Nothing in this  
2 paragraph shall be construed as preventing a  
3 State from exempting additional classes of indi-  
4 viduals from premiums under this section or  
5 from exempting additional individuals or serv-  
6 ices from cost sharing under this section.

7           “(4) INDEXING NOMINAL AMOUNTS.—In apply-  
8 ing section 1916 under paragraph (1) with respect  
9 to cost sharing that is ‘nominal’ in amount—

10           “(A) the Secretary shall phase-in an in-  
11 crease in such amount over a 3 year period (be-  
12 ginning January 1, 2006) so that—

13           “(i) a \$3 nominal amount in 2005  
14 would be increased to be a \$5 nominal  
15 amount in 2008; and

16           “(ii) other nominal amounts would be  
17 increased by a proportional amount (with  
18 appropriate rounding) during such period;  
19 and

20           “(B) the Secretary shall increase such  
21 ‘nominal’ amounts for each subsequent year  
22 (beginning with 2009) by the annual percentage  
23 increase in the medical care component of the  
24 consumer price index for all urban consumers

1 (U.S. city average) as rounded up in an appro-  
2 priate manner.

3 “(5) DETERMINATIONS OF FAMILY INCOME.—

4 In applying this subsection, family income shall be  
5 determined in a manner specified by the State for  
6 purposes of this subsection, including the use of  
7 such disregards as the State may provide. Family in-  
8 come shall be determined for such period and at  
9 such periodicity as the State may provide under this  
10 title.

11 “(6) POVERTY LINE DEFINED.—For purposes  
12 of this section, the term ‘poverty line’ has the mean-  
13 ing given such term in section 673(2) of the Com-  
14 munity Services Block Grant Act (42 U.S.C.  
15 9902(2)), including any revision required by such  
16 section.

17 “(7) CONSTRUCTION.—Nothing in this section  
18 shall be construed—

19 “(A) as preventing a State from further  
20 limiting the premiums and cost sharing imposed  
21 under this section beyond the limitations pro-  
22 vided under this subsection;

23 “(B) as affecting the authority of the Sec-  
24 retary through waiver to modify limitations on

1 premiums and cost sharing under this sub-  
2 section; or

3 “(C) as affecting any such waiver of re-  
4 quirements in effect under this title before the  
5 date of the enactment of this section with re-  
6 gard to the imposition of premiums and cost  
7 sharing.

8 “(d) ENFORCEABILITY OF PREMIUMS AND OTHER  
9 COST SHARING.—

10 “(1) PREMIUMS.—Notwithstanding section  
11 1916(e)(3) and section 1902(a)(10)(B), a State  
12 may, at its option, condition the provision of medical  
13 assistance for an individual upon prepayment of a  
14 premium authorized to be imposed under this sec-  
15 tion, or may terminate eligibility for such medical  
16 assistance on the basis of failure to pay such a pre-  
17 mium but shall not terminate eligibility of an indi-  
18 vidual for medical assistance under this title on the  
19 basis of failure to pay any such premium until such  
20 failure continues for a period of not less than 60  
21 days. A State may apply the previous sentence for  
22 some or all groups of beneficiaries as specified by  
23 the State and may waive payment of any such pre-  
24 mium in any case where the State determines that

1 requiring such payment would create an undue hard-  
2 ship.

3 “(2) COST SHARING.—Notwithstanding section  
4 1916(e) or any other provision of law, a State may  
5 permit a provider participating under the State plan  
6 to require, as a condition for the provision of care,  
7 items, or services to an individual entitled to medical  
8 assistance under this title for such care, items, or  
9 services, the payment of any cost sharing authorized  
10 to be imposed under this section with respect to  
11 such care, items, or services. Nothing in this para-  
12 graph shall be construed as preventing a provider  
13 from reducing or waiving the application of such  
14 cost sharing.”.

15 (b) CONFORMING AMENDMENT.—Section 1916(f) of  
16 such Act (42 U.S.C. 1396o(f)) is amended by inserting  
17 “and section 1916A” after “(b)(3)”.

18 (c) GAO STUDY OF IMPACT OF PREMIUMS AND COST  
19 SHARING.—The Comptroller General of the United States  
20 shall conduct a study on the impact of premiums and cost  
21 sharing under the medicaid program on access to, and uti-  
22 lization of, services. Not later than January 1, 2008, the  
23 Comptroller General shall submit to Congress a report on  
24 such study.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to cost sharing imposed for items  
3 and 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 SCRIPTON DRUGS.—

11 “(1) IN GENERAL.—In order to encourage  
12 beneficiaries to use drugs (in this subsection referred  
13 to as ‘preferred drugs’) identified by the State as the  
14 least (or less) costly effective prescription drugs  
15 within a class of drugs (as defined by the State),  
16 with respect to one or more groups of beneficiaries  
17 specified by the State, subject to paragraphs (2) and  
18 (5), the State may—

19 “(A) provide an increase in cost sharing  
20 (above the nominal level otherwise permitted  
21 under section 1916 or subsection (b), but sub-  
22 ject to paragraphs (2) and (3)) with respect to  
23 drugs that are not preferred drugs within a  
24 class; and

1           “(B) waive or reduce the cost sharing oth-  
2           erwise applicable for preferred drugs within  
3           such class and shall not apply any such cost  
4           sharing for such preferred drugs for individuals  
5           for whom cost sharing may not otherwise be im-  
6           posed under subsection (b)(3)(B).

7           “(2) LIMITATIONS.—

8           “(A) BY INCOME GROUP AS A MULTIPLE  
9           OF NOMINAL AMOUNTS.—In no case may the  
10          increase in cost sharing under paragraph (1)(A)  
11          with respect to a non-preferred drug exceed, in  
12          the case of an individual whose family income  
13          is—

14               “(i) below 100 percent of the poverty  
15               line applicable to a family of the size in-  
16               volved, the amount of nominal cost sharing  
17               (as otherwise determined under subsection  
18               (b));

19               “(ii) at least 100 percent, but below  
20               150 percent, of the poverty line applicable  
21               to a family of the size involved, two times  
22               the amount of nominal cost sharing (as  
23               otherwise determined under subsection  
24               (b)); or

1           “(iii) at least 150 percent of the pov-  
2           erty line applicable to a family of the size  
3           involved, three times the amount of nomi-  
4           nal cost sharing (as otherwise determined  
5           under subsection (b)).

6           “(B) LIMITATION TO NOMINAL FOR EX-  
7           EMPT POPULATIONS.—In the case of an indi-  
8           vidual who is otherwise not subject to cost shar-  
9           ing due to the application of subsection (b)(3),  
10          any increase in cost sharing under paragraph  
11          (1)(A) with respect to a non-preferred drug  
12          may not exceed a nominal amount (as otherwise  
13          determined under subsection (b)).

14          “(C) CONTINUED APPLICATION OF AGGRE-  
15          GATE CAP.—In addition to the limitations im-  
16          posed under subparagraphs (A) and (B), any  
17          increase in cost sharing under paragraph (1)(A)  
18          continues to be subject to the aggregate cap on  
19          cost sharing applied under paragraph (1) or (2)  
20          of subsection (b), as the case may be.

21          “(D) TRICARE PHARMACY BENEFIT PRO-  
22          GRAM LIMITATIONS.—In no case may a State—

23                 “(i) treat as a non-preferred drug  
24                 under this subsection a drug that is treat-  
25                 ed as a preferred drug under the

1 TRICARE pharmacy benefit program es-  
2 tablished under section 1074g of title 10,  
3 United States Code, as such program is in  
4 effect on the date of the enactment of this  
5 section; or

6 “(ii) impose cost sharing under this  
7 subsection that exceeds the cost sharing  
8 imposed under the standards under such  
9 pharmacy benefit program, as such pro-  
10 gram is in effect as of the date of the en-  
11 actment of this section.

12 “(3) WAIVER.—In carrying out paragraph (1),  
13 a State shall provide for the application of cost shar-  
14 ing levels applicable to a preferred drug in the case  
15 of a drug that is not a preferred drug if the pre-  
16 scribing physician determines that the preferred  
17 drug for treatment of the same condition either  
18 would not be as effective for the individual or would  
19 have adverse effects for the individual or both.

20 “(4) EXCLUSION AUTHORITY.—Nothing in this  
21 subsection shall be construed as preventing a State  
22 from excluding from paragraph (1) specified drugs  
23 or classes of drugs.

24 “(5) PRIOR AUTHORIZATION AND APPEALS  
25 PROCESS.—A State may not provide for increased

1 cost sharing under this subsection unless the State  
2 has implemented for outpatient prescription drugs a  
3 system for prior authorization and an appeals pro-  
4 cess for determinations relating to prior authoriza-  
5 tion.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall apply to cost sharing imposed for  
8 items and services furnished on or after October 1, 2006.

9 **SEC. 3123. EMERGENCY ROOM COPAYMENTS FOR NON-**  
10 **EMERGENCY CARE.**

11 (a) IN GENERAL.—Section 1916A of the Social Secu-  
12 rity Act, as inserted by section 3121 and as amended by  
13 section 3122, is further amended by adding at the end  
14 the following new subsection:

15 “(e) STATE OPTION FOR IMPOSING COST SHARING  
16 FOR NON-EMERGENCY CARE FURNISHED IN AN HOS-  
17 PITAL EMERGENCY ROOM.—

18 “(1) IN GENERAL.—Notwithstanding section  
19 1916 or the previous provisions of this section, but  
20 subject to the limitations of paragraph (2), a State  
21 may, by amendment to its State plan under this  
22 title, impose cost sharing for non-emergency services  
23 furnished to an individual (within one or more  
24 groups of individuals specified by the State) in a

1 hospital emergency department under this subsection  
2 if the following conditions are met:

3 “(A) ACCESS TO NON-EMERGENCY ROOM  
4 PROVIDER.—The individual has actually avail-  
5 able and accessible (as such terms are applied  
6 by the Secretary under section 1916(b)(3)) an  
7 alternate non-emergency services provider with  
8 respect to such services.

9 “(B) NOTICE.—The physician or hospital  
10 must inform the beneficiary after the appro-  
11 priate screening assessment, but before pro-  
12 viding the non-emergency services, of the fol-  
13 lowing:

14 “(i) The hospital may require the pay-  
15 ment of the State specified cost sharing  
16 before the service can be provided.

17 “(ii) The name and location of an al-  
18 ternate non-emergency services provider  
19 (described in subparagraph (A)) that is ac-  
20 tually available and accessible (as described  
21 in such subparagraph).

22 “(iii) The fact that such alternate  
23 provider can provide the services without  
24 the imposition of the increase in cost shar-  
25 ing described in clause (i).

1                   “(iv) The hospital provides a referral  
2                   to coordinate scheduling of this treatment.  
3                   Nothing in this subsection shall be construed as  
4                   preventing a State from applying (or waiving)  
5                   cost sharing otherwise permissible under this  
6                   section to services described in clause (iii).

7                   “(2) LIMITATIONS.—

8                   “(A) FOR POOREST BENEFICIARIES.—In  
9                   the case of an individual described in subsection  
10                  (b)(1), the cost sharing imposed under this sub-  
11                  section may not exceed twice the amount deter-  
12                  mined to be nominal under this section, subject  
13                  to the percent of income limitation otherwise  
14                  applicable under subsection (b)(1).

15                  “(B) APPLICATION TO EXEMPT POPU-  
16                  LATIONS.—In the case of an individual who is  
17                  otherwise not subject to cost sharing under sub-  
18                  section (b)(3), a State may impose cost sharing  
19                  under paragraph (1) for care in an amount that  
20                  does not exceed a nominal amount (as otherwise  
21                  determined under subsection (b)) so long as no  
22                  cost sharing is imposed to receive such care  
23                  through an outpatient department or other al-  
24                  ternative health care provider in the geographic

1 area of the hospital emergency department in-  
2 volved.

3 “(C) CONTINUED APPLICATION OF AGGRE-  
4 GATE CAP.—In addition to the limitations im-  
5 posed under subparagraphs (A) and (B), any  
6 increase in cost sharing under paragraph (1)  
7 continues to be subject to the aggregate cap on  
8 cost sharing applied under paragraph (1) or (2)  
9 of subsection (b), as the case may be.

10 “(3) CONSTRUCTION.—Nothing in this section  
11 shall be construed—

12 “(A) to limit a hospital’s obligations with  
13 respect to screening and stabilizing treatment  
14 of an emergency medical condition under sec-  
15 tion 1867; or

16 “(B) to modify any obligations under ei-  
17 ther State or Federal standards relating to the  
18 application of a prudent-layperson standard  
19 with respect to payment or coverage of emer-  
20 gency services by any managed care organiza-  
21 tion.

22 “(4) DETERMINATION STANDARD.—No hospital  
23 or physician that makes a determination with re-  
24 spect to the imposition of cost sharing under this  
25 subsection shall be liable in any civil action or pro-

1 ceeding for such determination absent a finding by  
2 clear and convincing evidence of gross negligence by  
3 the hospital or physician. The previous sentence  
4 shall not affect any liability under section 1867 or  
5 otherwise applicable under State law based upon the  
6 provision (or failure to provide) care.

7 “(5) DEFINITIONS.—For purposes of this sub-  
8 section:

9 “(A) NON-EMERGENCY SERVICES.—The  
10 term ‘non-emergency services’ means any care  
11 or services furnished in a emergency depart-  
12 ment of a hospital that the physician deter-  
13 mines do not constitute an appropriate medical  
14 screening examination or stabilizing examina-  
15 tion and treatment screening required to be  
16 provided by the hospital under section 1867.

17 “(B) ALTERNATE NON-EMERGENCY SERV-  
18 ICES PROVIDER.—The term ‘alternative non-  
19 emergency services provider’ means, with re-  
20 spect to non-emergency services for the diag-  
21 nosis or treatment of a condition, a health care  
22 provider, such as a physician’s office, health  
23 care clinic, community health center, hospital  
24 outpatient department, or similar health care  
25 provider, that provides clinically appropriate

1 services for such diagnosis or treatment of the  
2 condition within a clinically appropriate time of  
3 the provision of such non-emergency services  
4 and that is participating in the program under  
5 this title.”.

6 (b) GRANT FUNDS FOR ESTABLISHMENT OF ALTER-  
7 NATE NON-EMERGENCY SERVICES PROVIDERS.—Section  
8 1903 of the Social Security Act (42 U.S.C. 1396b) is  
9 amended by adding at the end the following new sub-  
10 section:

11 “(x) PAYMENTS FOR ESTABLISHMENT OF ALTER-  
12 NATE NON-EMERGENCY SERVICES PROVIDERS.—

13 “(1) PAYMENTS.—In addition to the payments  
14 otherwise provided under subsection (a), subject to  
15 paragraph (2), the Secretary shall provide for pay-  
16 ments to States under such subsection for the estab-  
17 lishment of alternate non-emergency service pro-  
18 viders (as defined in section 1916A(f)(5)(B)), or  
19 networks of such providers.

20 “(2) LIMITATION.—The total amount of pay-  
21 ments under this subsection shall be equal to, and  
22 shall not exceed, \$100,000,000 during the four-year  
23 period beginning with 2006. This subsection con-  
24 stitutes budget authority in advance of appropria-  
25 tions Acts and represents the obligation of the Sec-

1       retary to provide for the payment of amounts pro-  
2       vided under this subsection.

3               “(3) PREFERENCE.—In providing for payments  
4       to States under this subsection, the Secretary shall  
5       provide preference to States that establish, or pro-  
6       vide for, alternate non-emergency services providers  
7       or networks of such providers that—

8               “(A) serve rural or underserved areas  
9       where beneficiaries under this title may not  
10       have regular access to providers of primary care  
11       services; or

12              “(B) are in partnership with local commu-  
13       nity hospitals.

14              “(4) FORM AND MANNER OF PAYMENT.—Pay-  
15       ment to a State under this subsection shall be made  
16       only upon the filing of such application in such form  
17       and in such manner as the Secretary shall specify.  
18       Payment to a State under this subsection shall be  
19       made in the same manner as other payments under  
20       section 1903(a).”.

21       (c) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to non-emergency services fur-  
23       nished on or after the date of the enactment of this Act.

1 **SEC. 3124. USE OF BENCHMARK BENEFIT PACKAGES.**

2 Title XIX of the Social Security Act is amended by  
3 redesignating section 1936 as section 1937 and by insert-  
4 ing after section 1935 the following new section:

5 “STATE FLEXIBILITY IN BENEFIT PACKAGES

6 “SEC. 1936. (a) STATE OPTION OF PROVIDING  
7 BENCHMARK BENEFITS.—

8 “(1) AUTHORITY.—

9 “(A) IN GENERAL.—Notwithstanding any  
10 other provision of this title, a State, at its op-  
11 tion as a State plan amendment, may provide  
12 for medical assistance under this title to indi-  
13 viduals within one or more groups of individuals  
14 specified by the State through enrollment in  
15 coverage that provides—

16 “(i) benchmark coverage described in  
17 subsection (b)(1) and, for a qualifying  
18 child, benchmark dental coverage as de-  
19 fined in subparagraph (F); or

20 “(ii) benchmark equivalent coverage  
21 described in subsection (b)(2) and, for a  
22 qualifying child, benchmark dental cov-  
23 erage as defined in subparagraph (F).

24 “(B) LIMITATION.—The State may only  
25 exercise the option under subparagraph (A) for

1 eligibility categories that had been established  
2 before the date of the enactment of this section.

3 “(C) OPTION OF WRAP-AROUND BENE-  
4 FITS.—In the case of coverage described in sub-  
5 paragraph (A), a State, at its option, may pro-  
6 vide such wrap-around or additional benefits as  
7 the State may specify.

8 “(D) TREATMENT AS MEDICAL ASSIST-  
9 ANCE.—Payment of premiums for such cov-  
10 erage under this subsection shall be treated as  
11 payment of other insurance premiums described  
12 in the third sentence of section 1905(a).

13 “(E) QUALIFYING CHILD DEFINED.—For  
14 purposes of subparagraph (A), the term ‘quali-  
15 fying child’ means a child under 18 years of age  
16 with a family income below 133 percent of the  
17 poverty line applicable to a family of the size in-  
18 volved.

19 “(F) BENCHMARK DENTAL COVERAGE.—  
20 For purposes of subparagraph (A), the term  
21 ‘benchmark dental coverage’ means, with re-  
22 spect to a State, dental benefits coverage that  
23 is equivalent to or better than the dental cov-  
24 erage offered under the dental benefit plan that  
25 covers the greatest number of individuals in the

1 State who are not entitled to medical assistance  
2 under this title.

3 “(2) APPLICATION.—

4 “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), a State may require that a  
6 full-benefit eligible individual (as defined in  
7 subparagraph (C)) within a group obtain bene-  
8 fits under this title through enrollment in cov-  
9 erage described in paragraph (1)(A). A State  
10 may apply the previous sentence to individuals  
11 within one or more groups of such individuals.

12 “(B) LIMITATION ON APPLICATION.—A  
13 State may not require under subparagraph (A)  
14 an individual to obtain benefits through enroll-  
15 ment described in paragraph (1)(A) if the indi-  
16 vidual is within one of the following categories  
17 of individuals:

18 “(i) MANDATORY PREGNANT WOMEN  
19 AND CHILDREN.—The individual is a preg-  
20 nant woman or child under 18 years of age  
21 who is required to be covered under the  
22 State plan under section  
23 1902(a)(10)(A)(i).

1           “(ii) DUAL ELIGIBLES.—The indi-  
2           vidual is entitled to benefits under any  
3           part of title XVIII.

4           “(iii) TERMINALLY ILL HOSPICE PA-  
5           TIENTS.—The individual is terminally ill  
6           and is receiving benefits for hospice care  
7           under this title.

8           “(iv) ELIGIBLE ON BASIS OF INSTITU-  
9           TIONALIZATION.—The individual is an in-  
10          patient in a hospital, nursing facility, in-  
11          termediate care facility for the mentally re-  
12          tarded, or other medical institution, and is  
13          required, as a condition of receiving serv-  
14          ices in such institution under the State  
15          plan, to spend for costs of medical care all  
16          but a minimal amount of the individual’s  
17          income required for personal needs.

18          “(v) MEDICALLY FRAIL AND SPECIAL  
19          MEDICAL NEEDS INDIVIDUALS.—The indi-  
20          vidual is medically frail or otherwise an in-  
21          dividual with special medical needs (as  
22          identified in accordance with regulations of  
23          the Secretary).

24          “(vi) BENEFICIARIES QUALIFYING  
25          FOR LONG-TERM CARE SERVICES.—The in-

1           dividual qualifies based on medical condi-  
2           tion for medical assistance for long-term  
3           care services described in section  
4           1917(c)(1)(C).

5           “(C) FULL-BENEFIT ELIGIBLE INDIVID-  
6           UALS.—

7                   “(i) IN GENERAL.—For purposes of  
8                   this paragraph, subject to clause (ii), the  
9                   term ‘full-benefit eligible individual’ means  
10                  for a State for a month an individual who  
11                  is determined eligible by the State for med-  
12                  ical assistance for all services defined in  
13                  section 1905(a) which are covered under  
14                  the State plan under this title for such  
15                  month under section 1902(a)(10)(A) or  
16                  under any other category of eligibility for  
17                  medical assistance for all such services  
18                  under this title, as determined by the Sec-  
19                  retary.

20                  “(ii) EXCLUSION OF MEDICALLY  
21                  NEEDY AND SPEND-DOWN POPULATIONS.—  
22                  Such term shall not include an individual  
23                  determined to be eligible by the State for  
24                  medical assistance under section  
25                  1902(a)(10)(C) or by reason of section

1           1902(f) or otherwise eligible based on a re-  
2           duction of income based on costs incurred  
3           for medical or other remedial care.

4           “(b) BENCHMARK BENEFIT PACKAGES.—

5           “(1) IN GENERAL.—For purposes of subsection  
6           (a)(1), each of the following coverage shall be con-  
7           sidered to be benchmark coverage:

8           “(A) FEHBP-EQUIVALENT HEALTH IN-  
9           SURANCE COVERAGE.—The standard Blue  
10          Cross/Blue Shield preferred provider option  
11          service benefit plan, described in and offered  
12          under section 8903(1) of title 5, United States  
13          Code.

14          “(B) STATE EMPLOYEE COVERAGE.—A  
15          health benefits coverage plan that is offered and  
16          generally available to State employees in the  
17          State involved.

18          “(C) COVERAGE OFFERED THROUGH  
19          HMO.—The health insurance coverage plan  
20          that—

21                  “(i) is offered by a health mainte-  
22                  nance organization (as defined in section  
23                  2791(b)(3) of the Public Health Service  
24                  Act), and

1           “(ii) has the largest insured commer-  
2           cial, non-medicaid enrollment of covered  
3           lives of such coverage plans offered by  
4           such a health maintenance organization in  
5           the State involved.

6           “(2) BENCHMARK-EQUIVALENT COVERAGE.—  
7           For purposes of subsection (a)(1), coverage that  
8           meets the following requirement shall be considered  
9           to be benchmark-equivalent coverage:

10           “(A) INCLUSION OF BASIC SERVICES.—  
11           The coverage includes benefits for items and  
12           services within each of the following categories  
13           of basic services:

14           “(i) Inpatient and outpatient hospital  
15           services.

16           “(ii) Physicians’ surgical and medical  
17           services.

18           “(iii) Laboratory and x-ray services.

19           “(iv) Well-baby and well-child care,  
20           including age-appropriate immunizations.

21           “(v) Other appropriate preventive  
22           services, as designated by the Secretary.

23           “(B) AGGREGATE ACTUARIAL VALUE  
24           EQUIVALENT TO BENCHMARK PACKAGE.—The  
25           coverage has an aggregate actuarial value that

1 is at least actuarially equivalent to one of the  
2 benchmark benefit packages described in para-  
3 graph (1).

4 “(C) SUBSTANTIAL ACTUARIAL VALUE FOR  
5 ADDITIONAL SERVICES INCLUDED IN BENCH-  
6 MARK PACKAGE.—With respect to each of the  
7 following categories of additional services for  
8 which coverage is provided under the bench-  
9 mark benefit package used under subparagraph  
10 (B), the coverage has an actuarial value that is  
11 equal to at least 75 percent of the actuarial  
12 value of the coverage of that category of serv-  
13 ices in such package:

14 “(i) Coverage of prescription drugs.

15 “(ii) Mental health services.

16 “(iii) Vision services.

17 “(iv) Hearing services.

18 “(3) DETERMINATION OF ACTUARIAL VALUE.—  
19 The actuarial value of coverage of benchmark benefit  
20 packages shall be set forth in an actuarial opinion  
21 in an actuarial report that has been prepared—

22 “(A) by an individual who is a member of  
23 the American Academy of Actuaries;

24 “(B) using generally accepted actuarial  
25 principles and methodologies;

1           “(C) using a standardized set of utilization  
2           and price factors;

3           “(D) using a standardized population that  
4           is representative of the population involved;

5           “(E) applying the same principles and fac-  
6           tors in comparing the value of different cov-  
7           erage (or categories of services);

8           “(F) without taking into account any dif-  
9           ferences in coverage based on the method of de-  
10          livery or means of cost control or utilization  
11          used; and

12          “(G) taking into account the ability of a  
13          State to reduce benefits by taking into account  
14          the increase in actuarial value of benefits cov-  
15          erage offered under this title that results from  
16          the limitations on cost sharing under such cov-  
17          erage.

18          The actuary preparing the opinion shall select and  
19          specify in the memorandum the standardized set and  
20          population to be used under subparagraphs (C) and  
21          (D).

22          “(4) COVERAGE OF RURAL HEALTH CLINIC AND  
23          FQHC SERVICES.—Notwithstanding the previous pro-  
24          visions of this section, a State may not provide for  
25          medical assistance through enrollment of an indi-

1       vidual with benchmark coverage or benchmark equiv-  
2       alent coverage under this section unless—

3               “(A) the individual has access, through  
4               such coverage or otherwise, to services de-  
5               scribed in subparagraphs (B) and (C) of section  
6               1905(a)(2); and

7               “(B) payment for such services is made in  
8               accordance with the requirements of section  
9               1902(bb).”.

10 **SEC. 3125. STATE OPTION TO ESTABLISH NON-EMERGENCY**  
11 **MEDICAL TRANSPORTATION PROGRAM.**

12       (a) IN GENERAL.—Section 1902(a) of the Social Se-  
13       curity Act (42 U.S.C. 1396a(a)) is amended—

14               (1) in paragraph (66), by striking “and” at the  
15       end;

16               (2) in paragraph (67) by striking the period at  
17       the end and inserting “; and”; and

18               (3) by inserting after paragraph (67) the fol-  
19       lowing:

20               “(68) at the option of the State and notwith-  
21       standing paragraph (10)(B) or (23), provide for the  
22       establishment of a non-emergency medical transpor-  
23       tation brokerage program in order to more cost-ef-  
24       fectively provide transportation for individuals eligi-  
25       ble for medical assistance under the State plan who

1 need access to medical care or services and have no  
2 other means of transportation which—

3 “(A) may include a wheelchair van, taxi,  
4 stretcher car, bus passes and tickets, secured  
5 transportation, and such other transportation  
6 as the Secretary determines appropriate; and

7 “(B) may be conducted under contract  
8 with a broker who—

9 “(i) is selected through a competitive  
10 bidding process based on the State’s eval-  
11 uation of the broker’s experience, perform-  
12 ance, references, resources, qualifications,  
13 and costs;

14 “(ii) has oversight procedures to mon-  
15 itor beneficiary access and complaints and  
16 ensure that transport personnel are li-  
17 censed, qualified, competent, and cour-  
18 teous;

19 “(iii) is subject to regular auditing  
20 and oversight by the State in order to en-  
21 sure the quality of the transportation serv-  
22 ices provided and the adequacy of bene-  
23 ficiary access to medical care and services;  
24 and



1 amendments made by such sections, shall apply to women  
2 who are receiving medical assistance by virtue of the appli-  
3 cation of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa)  
4 of the Social Security Act (42 U.S.C.  
5 1396a(a)(10)(A)(ii)(XVIII), 1396a(aa)).

6           **CHAPTER 4—EXPANDED ACCESS TO**  
7                           **CERTAIN BENEFITS**

8   **SEC. 3131. EXPANDED ACCESS TO HOME AND COMMUNITY-**  
9                           **BASED SERVICES FOR THE ELDERLY AND**  
10                          **DISABLED.**

11           (a) IN GENERAL.—Section 1905(a) of the Social Se-  
12 curity Act (42 U.S.C. 1396d(a)) is amended—

13                   (1) in paragraph (27), by striking “and” at the  
14 end;

15                   (2) by redesignating paragraph (28) as para-  
16 graph (29); and

17                   (3) by inserting after paragraph (27) the fol-  
18 lowing new paragraph:

19                   “(28) subject to section 1902(cc), home and  
20 community-based services (within the scope of serv-  
21 ices described in paragraph (4)(B) of section  
22 1915(e) for which the Secretary has the authority to  
23 approve a waiver and not including room and board)  
24 provided pursuant to a written plan of care for indi-  
25 viduals—

1           “(A) who are 65 years of age or older, who  
2           are disabled (as defined under the State plan),  
3           who are persons with developmental disabilities  
4           or mental retardation or persons with related  
5           conditions, or who are within a subgroup there-  
6           of under the State plan;

7           “(B) with respect to whom there has been  
8           a determination, in the manner described in  
9           paragraph (1) of such section, that but for the  
10          provision of such services the individuals would  
11          require the level of care provided in a hospital,  
12          a nursing facility, or an intermediate care facil-  
13          ity for the mentally retarded the cost of which  
14          could be reimbursed under the State plan; and

15          “(C) who qualify for medical assistance  
16          under the eligibility standards in effect in the  
17          State (which may include standards in effect  
18          under an approved waiver) as of the date of the  
19          enactment of this paragraph; and”.

20          (b) CONDITIONS.—Section 1902 of such Act (42  
21          U.S.C. 1396a) is amended by adding at the end the fol-  
22          lowing new subsection:

23          “(cc) PROVISION OF HOME AND COMMUNITY-BASED  
24          SERVICES UNDER STATE PLAN.—

1           “(1) CONDITIONS.—A State may provide home  
2           and community-based services under section  
3           1905(a)(28), other than through a waiver or dem-  
4           onstration project under section 1915 or 1115, only  
5           if the following conditions are met:

6                   “(A) EXPIRATION OF PREVIOUS WAIVER.—

7           Any State waiver or demonstration project  
8           under either such section with respect to serv-  
9           ices for individuals described in such section  
10          has expired.

11                   “(B) INFORMATION.—The State must

12          monitor and report to the Secretary, in a form  
13          and manner specified by the Secretary and on  
14          a quarterly basis, enrollment and expenditures  
15          for provision of such services under such sec-  
16          tion.

17                   “(2) OPTIONS.—Notwithstanding any other

18          provision of this title, in a State’s provision of serv-  
19          ices under section 1905(a)(28)—

20                   “(A) a State is not required to comply with

21          the requirements of section 1902(a)(1) (relating  
22          to statewideness), section 1902(a)(10)(B) (re-  
23          lating to comparability), and section  
24          1902(a)(10)(C)(i)(III) (relating to income and  
25          resource rules applicable in the community);



1 is amended by adding at the end the following new sub-  
2 section:

3       “(i)(1) A State may provide, as ‘medical assistance’,  
4 payment for part or all of the cost of self-directed personal  
5 assistance services (other than room and board) under the  
6 plan which are provided pursuant to a written plan of care  
7 to individuals with respect to whom there has been a de-  
8 termination that, but for the provision of such services,  
9 the individuals would require and receive personal care  
10 services under the plan, or home and community-based  
11 services provided pursuant to a waiver under subsection  
12 (c). Self-directed personal assistance services may not be  
13 provided under this subsection to individuals who reside  
14 in a home or property that is owned, operated, or con-  
15 trolled by a provider of services, not related by blood or  
16 marriage.

17       “(2) The Secretary shall not grant approval for a  
18 State self-directed personal assistance services program  
19 under this section unless the State provides assurances  
20 satisfactory to the Secretary of the following:

21               “(A) Necessary safeguards have been taken to  
22 protect the health and welfare of individuals pro-  
23 vided services under the program, and to assure fi-  
24 nancial accountability for funds expended with re-  
25 spect to such services.

1           “(B) The State will provide, with respect to in-  
2           dividuals who—

3                   “(i) are entitled to medical assistance for  
4                   personal care services under the plan, or receive  
5                   home and community-based services under a  
6                   waiver granted under subsection (c);

7                   “(ii) may require self-directed personal as-  
8                   sistance services; and

9                   “(iii) may be eligible for self-directed per-  
10                  sonal assistance services,

11           an evaluation of the need for personal care under  
12           the plan, or personal services under a waiver granted  
13           under subsection (c).

14           “(C) Such individuals who are determined to be  
15           likely to require personal care under the plan, or  
16           home and community-based services under a waiver  
17           granted under subsection (c) are informed of the  
18           feasible alternatives, if available under the State’s  
19           self-directed personal assistance services program, at  
20           the choice of such individuals, to the provision of  
21           personal care services under the plan, or personal  
22           assistance services under a waiver granted under  
23           subsection (c).

24           “(D) The State will provide for a support sys-  
25           tem that ensures participants in the self-directed

1 personal assistance services program are appro-  
2 priately assessed and counseled prior to enrollment  
3 and are able to manage their budgets. Additional  
4 counseling and management support may be pro-  
5 vided at the request of the participant.

6 “(E) The State will provide to the Secretary an  
7 annual report on the number of individuals served  
8 and total expenditures on their behalf in the aggre-  
9 gate. The State shall also provide an evaluation of  
10 overall impact on the health and welfare of partici-  
11 pating individuals compared to non-participants  
12 every three years.

13 “(3) A State may provide self-directed personal as-  
14 sistance services under the State plan without regard to  
15 the requirements of section 1902(a)(1) and may limit the  
16 population eligible to receive these services and limit the  
17 number of persons served without regard to section  
18 1902(a)(10)(B).

19 “(4)(A) For purposes of this subsection, the term  
20 ‘self-directed personal assistance services’ means personal  
21 care and related services, or home and community-based  
22 services otherwise available under the plan under this title  
23 or subsection (c), that are provided to an eligible partici-  
24 pant under a self-directed personal assistance services pro-  
25 gram under this section, under which individuals, within

1 an approved self-directed services plan and budget, pur-  
2 chase personal assistance and related services, and per-  
3 mits participants to hire, fire, supervise, and manage the  
4 individuals providing such services.

5 “(B) At the election of the State—

6 “(i) a participant may choose to use any indi-  
7 vidual capable of providing the assigned tasks in-  
8 cluding legally liable relatives as paid providers of  
9 the services; and

10 “(ii) the individual may use the individual’s  
11 budget to acquire items that increase independence  
12 or substitute (such as a microwave oven or an acces-  
13 sibility ramp) for human assistance, to the extent  
14 that expenditures would otherwise be made for the  
15 human assistance.

16 “(5) For purpose of this section, the term ‘approved  
17 self-directed services plan and budget’ means, with respect  
18 to a participant, the establishment of a plan and budget  
19 for the provision of self-directed personal assistance serv-  
20 ices, consistent with the following requirements:

21 “(A) SELF-DIRECTION.—The participant (or in  
22 the case of a participant who is a minor child, the  
23 participant’s parent or guardian, or in the case of an  
24 incapacitated adult, another individual recognized by  
25 State law to act on behalf of the participant) exer-

1 cises choice and control over the budget, planning,  
2 and purchase of self-directed personal assistance  
3 services, including the amount, duration, scope, pro-  
4 vider, and location of service provision.

5 “(B) ASSESSMENT OF NEEDS.—There is an as-  
6 sessment of the needs, strengths, and preferences of  
7 the participants for such services.

8 “(C) SERVICE PLAN.—A plan for such services  
9 (and supports for such services) for the participant  
10 has been developed and approved by the State based  
11 on such assessment through a person-centered proc-  
12 ess that—

13 “(i) builds upon the participant’s capacity  
14 to engage in activities that promote community  
15 life and that respects the participant’s pref-  
16 erences, choices, and abilities; and

17 “(ii) involves families, friends, and profes-  
18 sionals in the planning or delivery of services or  
19 supports as desired or required by the partici-  
20 pant.

21 “(D) SERVICE BUDGET.—A budget for such  
22 services and supports for the participant has been  
23 developed and approved by the State based on such  
24 assessment and plan and on a methodology that uses  
25 valid, reliable cost data, is open to public inspection,

1 and includes a calculation of the expected cost of  
2 such services if those services were not self-directed.  
3 The budget may not restrict access to other medi-  
4 cally necessary care and services furnished under the  
5 plan and approved by the State but not included in  
6 the budget.

7 “(E) APPLICATION OF QUALITY ASSURANCE  
8 AND RISK MANAGEMENT.—There are appropriate  
9 quality assurance and risk management techniques  
10 used in establishing and implementing such plan and  
11 budget that recognize the roles and responsibilities  
12 in obtaining services in a self-directed manner and  
13 assure the appropriateness of such plan and budget  
14 based upon the participant’s resources and capabili-  
15 ties.

16 “(6) A State may employ a financial management en-  
17 tity to make payments to providers, track costs, and make  
18 reports under the program. Payment for the activities of  
19 the financial management entity shall be at the adminis-  
20 trative rate established in section 1903(a).”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall apply to services furnished on or after  
23 January 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 So-  
4 cial Security Act (42 U.S.C. 1396p(b)(1)(C)) is amend-  
5 ed—

6 (1) in clause (ii), by inserting “or which has a  
7 State plan amendment that provides for a qualified  
8 State long-term care insurance partnership (as de-  
9 fined in clause (iii))” after “1993,”; and

10 (2) by adding at the end the following new  
11 clauses:

12 “(iii) For purposes of this paragraph, the term  
13 ‘qualified State long-term care insurance partner-  
14 ship’ means an approved State plan amendment  
15 under this title that provides for the disregard of  
16 any assets or resources in an amount equal to the  
17 insurance benefit payments that are made to or on  
18 behalf of an individual who is a beneficiary under a  
19 long-term care insurance policy (including a certifi-  
20 cate issued under a group insurance contract), if the  
21 following requirements are met:

22 “(I) The policy covers an insured who was  
23 a resident of such State when coverage first be-  
24 came effective under the policy.

25 “(II) The policy is a qualified long-term  
26 care insurance policy (as defined in section

1 7702B(b) of the Internal Revenue Code of  
2 1986) issued on or after the first day of the  
3 first calendar quarter in which the plan amend-  
4 ment was submitted to the Secretary.

5 “(III) If the policy does not provide some  
6 level of inflation protection, the insured was of-  
7 fered, before the policy was sold, a long-term  
8 care insurance policy that provides some level of  
9 inflation protection.

10 “(IV) The State Medicaid agency under  
11 section 1902(a)(5) provides information and  
12 technical assistance to the State insurance de-  
13 partment on the insurance department’s role of  
14 assuring that any individual who sells a long-  
15 term care insurance policy under the partner-  
16 ship receives training or demonstrates evidence  
17 of an understanding of such policies and how  
18 they relate to other public and private coverage  
19 of long-term care.

20 “(V) The issuer of the policy provides reg-  
21 ular reports to the Secretary that include, in ac-  
22 cordance with regulations of the Secretary (pro-  
23 mulgated after consultation with the States),  
24 notification regarding when all benefits provided  
25 under the policy have been paid and the amount

1 of such benefits paid, when the policy otherwise  
2 terminates, and such other information as the  
3 Secretary determines may be appropriate to the  
4 administration of such partnerships.

5 “(VI) The State does not impose any re-  
6 quirement affecting the terms or benefits of  
7 such a policy unless the State imposes such re-  
8 quirement on long-term care insurance policies  
9 without regard to whether the policy is covered  
10 under the partnership or is offered in connec-  
11 tion with such a partnership.

12 In the case of a long-term care insurance policy  
13 which is exchanged for another such policy, sub-  
14 clause (I) shall be applied based on the coverage of  
15 the first such policy that was exchanged.

16 “(iv) The Secretary—

17 “(I) as appropriate, shall provide copies of  
18 the reports described in clause (iii)(V) to the  
19 State involved; and

20 “(II) shall promote the education of con-  
21 sumers regarding qualified State long-term care  
22 insurance partnerships.

23 “(v) The Secretary, in consultation with other  
24 appropriate Federal agencies, issuers of long-term  
25 care insurance, the National Association of Insur-

1       ance Commissioners, and State insurance commis-  
2       sioners, shall develop recommendations for Congress  
3       to authorize and fund a uniform minimum data set  
4       to be reported electronically by all issuers of long-  
5       term care insurance policies under qualified State  
6       long-term care insurance partnerships to a secure,  
7       centralized electronic query and report-generating  
8       mechanism that the State, the Secretary, and other  
9       Federal agencies can access.”.

10       (b) CONSTRUCTION.—Nothing in the amendments  
11       made by subsection (a) shall be construed as affecting the  
12       treatment of long-term care insurance policies that will be,  
13       are, or were provided under a State plan amendment de-  
14       scribed in section 1917(b)(1)(C)(ii) of the Social Security  
15       Act that was approved as of May 14, 1993.

16       (c) EFFECTIVE DATE.—A State plan amendment  
17       that provides for a qualified State long-term care insur-  
18       ance partnership under the amendments made by sub-  
19       section (a) may provide that such amendment is effective  
20       for long-term care insurance policies issued on or after a  
21       date, specified in the amendment, that is not earlier than  
22       the first day of the first calendar quarter in which the  
23       plan amendment was submitted to the Secretary of Health  
24       and Human Services.

1 (d) STANDARDS FOR RECIPROCAL RECOGNITION  
2 AMONG PARTNERSHIP STATES.—In order to permit port-  
3 ability in long-term care insurance policies purchased  
4 under State long-term care insurance partnerships, the  
5 Secretary of Health and Human Services may develop, in  
6 consultation with the States and the National Association  
7 of Insurance Commissioners, uniform standards for recip-  
8 rocal recognition of such policies among States with quali-  
9 fied State long-term care insurance partnerships.

10 **SEC. 3134. HEALTH OPPORTUNITY ACCOUNTS.**

11 Title XIX of the Social Security Act, as amended by  
12 section 3124, is amended—

13 (1) by redesignating section 1937 as section  
14 1938; and

15 (2) by inserting after section 1936 the following  
16 new section:

17 “HEALTH OPPORTUNITY ACCOUNTS

18 “SEC. 1937. (a) AUTHORITY.—

19 “(1) IN GENERAL.—Notwithstanding any other  
20 provision of this title, the Secretary shall establish a  
21 demonstration program under which States may pro-  
22 vide under their State plans under this title (includ-  
23 ing such a plan operating under a statewide waiver  
24 under section 1115) in accordance with this section  
25 for the provision of alternative benefits consistent  
26 with subsection (c) for eligible population groups in

1 one or more geographic areas of the State specified  
2 by the State. An amendment under the previous sen-  
3 tence is referred to in this section as a ‘State dem-  
4 onstration program’.

5 “(2) INITIAL DEMONSTRATION.—The dem-  
6 onstration program under this section shall begin on  
7 January 1, 2006. During the first 5 years of such  
8 program, the Secretary shall not approve more than  
9 10 State demonstration programs, with each State  
10 demonstration program covering one or more geo-  
11 graphic areas specified by the State. After such 5-  
12 year period—

13 “(A) unless the Secretary finds, taking  
14 into account cost-effectiveness, quality of care,  
15 and other criteria that the Secretary specifies,  
16 that a State demonstration program previously  
17 implemented has been unsuccessful, such a  
18 demonstration program may be extended or  
19 made permanent in the State; and

20 “(B) unless the Secretary finds, taking  
21 into account cost-effectiveness, quality of care,  
22 and other criteria that the Secretary specifies,  
23 that all State demonstration programs pre-  
24 viously implemented were unsuccessful, other

1 States may implement State demonstration pro-  
2 grams.

3 “(3) APPROVAL.—The Secretary shall not ap-  
4 prove a State demonstration program under para-  
5 graph (1) unless the program includes the following:

6 “(A) Creating patient awareness of the  
7 high cost of medical care.

8 “(B) Providing incentives to patients to  
9 seek preventive care services.

10 “(C) Reducing inappropriate use of health  
11 care services.

12 “(D) Enabling patients to take responsi-  
13 bility for health outcomes.

14 “(E) Providing enrollment counselors and  
15 ongoing education activities.

16 “(F) Providing transactions involving  
17 health opportunity accounts to be conducted  
18 electronically and without cash.

19 “(G) Providing access to negotiated pro-  
20 vider payment rates consistent with this section.

21 Nothing in this section shall be construed as pre-  
22 venting a State demonstration program from pro-  
23 viding incentives for patients obtaining appropriate  
24 preventive care (as defined for purposes of section  
25 223(c)(2)(C) of the Internal Revenue Code of 1986),

1 such as additional account contributions for an indi-  
2 vidual demonstrating healthy prevention practices.

3 “(4) NO REQUIREMENT FOR  
4 STATEWIDENESS.—Nothing in this section or any  
5 other provision of law shall be construed to require  
6 that a State must provide for the implementation of  
7 a State demonstration program on a Statewide  
8 basis.

9 “(5) REPORTS.—The Secretary shall periodi-  
10 cally submit to Congress reports regarding the suc-  
11 cess of State demonstration programs.

12 “(b) ELIGIBLE POPULATION GROUPS.—

13 “(1) IN GENERAL.—A State demonstration pro-  
14 gram under this section shall specify the eligible  
15 population groups consistent with paragraphs (2)  
16 and (3).

17 “(2) ELIGIBILITY LIMITATIONS DURING INITIAL  
18 DEMONSTRATION PERIOD.—During the initial 5  
19 years of the demonstration program under this sec-  
20 tion, a State demonstration program shall not apply  
21 to any of the following individuals:

22 “(A) Individuals who are 65 years of age  
23 or older.

24 “(B) Individuals who are disabled, regard-  
25 less of whether or not their eligibility for med-

1           ical assistance under this title is based on such  
2           disability.

3           “(C) Individuals who are eligible for med-  
4           ical assistance under this title only because they  
5           are (or were within the previous 60 days) preg-  
6           nant.

7           “(D) Individuals who have been eligible for  
8           medical assistance for a continuous period of  
9           less than 3 months.

10          “(3) ADDITIONAL LIMITATIONS.—A State dem-  
11          onstration program shall not apply to any individual  
12          within a category of individuals described in section  
13          1936(a)(2)(B).

14          “(4) LIMITATIONS.—

15                 “(A) STATE OPTION.—This subsection  
16                 shall not be construed as preventing a State  
17                 from further limiting eligibility.

18                 “(B) ON ENROLLEES IN MEDICAID MAN-  
19                 AGED CARE ORGANIZATIONS.—Insofar as the  
20                 State provides for eligibility of individuals who  
21                 are enrolled in medicaid managed care organi-  
22                 zations, such individuals may participate in the  
23                 State demonstration program only if the State  
24                 provides assurances satisfactory to the Sec-

1           retary that the following conditions are met  
2           with respect to any such organization:

3                   “(i) In no case may the number of  
4                   such individuals enrolled in the organiza-  
5                   tion who participate in the program exceed  
6                   5 percent of the total number of individ-  
7                   uals enrolled in such organization.

8                   “(ii) The proportion of enrollees in  
9                   the organization who so participate is not  
10                  significantly disproportionate to the pro-  
11                  portion of such enrollees in other such or-  
12                  ganizations who participate.

13                  “(iii) The State has provided for an  
14                  appropriate adjustment in the per capita  
15                  payments to the organization to account  
16                  for such participation, taking into account  
17                  differences in the likely use of health serv-  
18                  ices between enrollees who so participate  
19                  and enrollees who do not so participate.

20                  “(5) VOLUNTARY PARTICIPATION.—An eligible  
21                  individual shall be enrolled in a State demonstration  
22                  program only if the individual voluntarily enrolls.  
23                  Except in such hardship cases as the Secretary shall  
24                  specify, such an enrollment shall be effective for a  
25                  period of 12 months, but may be extended for addi-

1 tional periods of 12 months each with the consent of  
2 the individual.

3 “(c) ALTERNATIVE BENEFITS.—

4 “(1) IN GENERAL.—The alternative benefits  
5 provided under this section shall consist, consistent  
6 with this subsection, of at least—

7 “(A) coverage for medical expenses in a  
8 year for items and services for which benefits  
9 are otherwise provided under this title after an  
10 annual deductible described in paragraph (2)  
11 has been met; and

12 “(B) contribution into a health opportunity  
13 account.

14 Nothing in subparagraph (A) shall be construed as  
15 preventing a State from providing for coverage of  
16 preventive care (referred to in subsection (a)(3))  
17 within the alternative benefits without regard to the  
18 annual deductible.

19 “(2) ANNUAL DEDUCTIBLE.—The amount of  
20 the annual deductible described in paragraph (1)(A)  
21 shall be at least 100 percent, but no more than 110  
22 percent, of the annualized amount of contributions  
23 to the health opportunity account under subsection  
24 (d)(2)(A)(i), determined without regard to any limi-  
25 tation described in subsection (d)(2)(C)(i)(II).

1           “(3) ACCESS TO NEGOTIATED PROVIDER PAY-  
2           MENT RATES.—

3           “(A) FEE-FOR-SERVICE ENROLLEES.—In  
4           the case of an individual who is participating in  
5           a State demonstration program and who is not  
6           enrolled with a medicaid managed care organi-  
7           zation, the State shall provide that the indi-  
8           vidual may obtain demonstration program med-  
9           icaid services from—

10           “(i) any participating provider under  
11           this title at the same payment rates that  
12           would be applicable to such services if the  
13           deductible described in paragraph (1)(A)  
14           was not applicable; or

15           “(ii) any provider at payment rates  
16           that do not exceed 125 percent of the pay-  
17           ment rate that would be applicable to such  
18           services furnished by a participating pro-  
19           vider under this title if the deductible de-  
20           scribed in paragraph (1)(A) was not appli-  
21           cable.

22           “(B) TREATMENT UNDER MEDICAID MAN-  
23           AGED CARE PLANS.—In the case of an indi-  
24           vidual who is participating in a State dem-  
25           onstration program and is enrolled with a med-

1           icaid managed care organization, the State shall  
2           enter into an arrangement with the organiza-  
3           tion under which the individual may obtain  
4           demonstration program medicaid services from  
5           any provider under such organization at pay-  
6           ment rates that do not exceed the payment rate  
7           that would be applicable to such services if the  
8           deductible described in paragraph (1)(A) was  
9           not applicable.

10           “(C) COMPUTATION.—The payment rates  
11           described in subparagraphs (A) and (B) shall  
12           be computed without regard to any cost sharing  
13           that would be otherwise applicable under sec-  
14           tions 1916 and 1916A.

15           “(D) DEFINITIONS.—For purposes of this  
16           paragraph:

17           “(i) The term ‘demonstration program  
18           medicaid services’ means, with respect to  
19           an individual participating in a State dem-  
20           onstration program, services for which the  
21           individual would be provided medical as-  
22           sistance under this title but for the appli-  
23           cation of the deductible described in para-  
24           graph (1)(A).

1                   “(ii) The term ‘participating provider’  
2                   means—

3                                 “(I) with respect to an individual  
4                                 described in subparagraph (A), a  
5                                 health care provider that has entered  
6                                 into a participation agreement with  
7                                 the State for the provision of services  
8                                 to individuals entitled to benefits  
9                                 under the State plan; or

10                                “(II) with respect to an indi-  
11                                vidual described in subparagraph (B)  
12                                who is enrolled in a medicaid man-  
13                                aged care organization, a health care  
14                                provider that has entered into an ar-  
15                                rangement for the provision of serv-  
16                                ices to enrollees of the organization  
17                                under this title.

18                                “(4) NO EFFECT ON SUBSEQUENT BENEFITS.—  
19                                Except as provided under paragraphs (1) and (2),  
20                                alternative benefits for an eligible individual shall  
21                                consist of the benefits otherwise provided to the indi-  
22                                vidual, including cost sharing relating to such bene-  
23                                fits.

24                                “(5) OVERRIDING COST SHARING AND COM-  
25                                PARABILITY REQUIREMENTS FOR ALTERNATIVE

1 BENEFITS.—The provisions of this title relating to  
2 cost sharing for benefits (including sections 1916  
3 and 1916A) shall not apply with respect to benefits  
4 to which the annual deductible under paragraph  
5 (1)(A) applies. The provisions of section  
6 1902(a)(10)(B) (relating to comparability) shall not  
7 apply with respect to the provision of alternative  
8 benefits (as described in this subsection).

9 “(6) TREATMENT AS MEDICAL ASSISTANCE.—  
10 Subject to subparagraphs (D) and (E) of subsection  
11 (d)(2), payments for alternative benefits under this  
12 section (including contributions into a health oppor-  
13 tunity account) shall be treated as medical assist-  
14 ance for purposes of section 1903(a).

15 “(7) USE OF TIERED DEDUCTIBLE AND COST  
16 SHARING.—

17 “(A) IN GENERAL.—A State—

18 “(i) may vary the amount of the an-  
19 nual deductible applied under paragraph  
20 (1)(A) based on the income of the family  
21 involved so long as it does not favor fami-  
22 lies with higher income over those with  
23 lower income; and

24 “(ii) may vary the amount of the max-  
25 imum out-of-pocket cost sharing (as de-

1            fined in subparagraph (B)) based on the  
2            income of the family involved so long as it  
3            does not favor families with higher income  
4            over those with lower income.

5            “(B) MAXIMUM OUT-OF-POCKET COST  
6            SHARING.—For purposes of subparagraph  
7            (A)(ii), the term ‘maximum out-of-pocket cost  
8            sharing’ means, for an individual or family, the  
9            amount by which the annual deductible level ap-  
10           applied under paragraph (1)(A) to the individual  
11           or family exceeds the balance in the health op-  
12           portunity account for the individual or family.

13           “(8) CONTRIBUTIONS BY EMPLOYERS.—Noth-  
14           ing in this section shall be construed as preventing  
15           an employer from providing health benefits coverage  
16           consisting of the coverage described in paragraph  
17           (1)(A) to individuals who are provided alternative  
18           benefits under this section.

19           “(d) HEALTH OPPORTUNITY ACCOUNT.—

20           “(1) IN GENERAL.—For purposes of this sec-  
21           tion, the term ‘health opportunity account’ means an  
22           account that meets the requirements of this sub-  
23           section.

24           “(2) CONTRIBUTIONS.—

1           “(A) IN GENERAL.—No contribution may  
2 be made into a health opportunity account ex-  
3 cept—

4           “(i) contributions by the State under  
5 this title; and

6           “(ii) contributions by other persons  
7 and entities, such as charitable organiza-  
8 tions.

9           “(B) STATE CONTRIBUTION.—A State  
10 shall specify the contribution amount that shall  
11 be deposited under subparagraph (A)(i) into a  
12 health opportunity account.

13           “(C) LIMITATION ON ANNUAL STATE CON-  
14 TRIBUTION PROVIDED AND PERMITTING IMPO-  
15 SITION OF MAXIMUM ACCOUNT BALANCE.—

16           “(i) IN GENERAL.—A State—

17           “(I) may impose limitations on  
18 the maximum contributions that may  
19 be deposited under subparagraph  
20 (A)(i) into a health opportunity ac-  
21 count in a year;

22           “(II) may limit contributions into  
23 such an account once the balance in  
24 the account reaches a level specified  
25 by the State; and

1                   “(III) subject to clauses (ii) and  
2                   (iii) and subparagraph (D)(i), may  
3                   not provide contributions described in  
4                   subparagraph (A)(i) to a health op-  
5                   portunity account on behalf of an in-  
6                   dividual or family to the extent the  
7                   amount of such contributions (includ-  
8                   ing both State and Federal shares)  
9                   exceeds, on an annual basis, \$2,500  
10                  for each individual (or family mem-  
11                  ber) who is an adult and \$1,000 for  
12                  each individual (or family member)  
13                  who is a child.

14                  “(ii) INDEXING OF DOLLAR LIMITA-  
15                  TIONS.—For each year after 2006, the dol-  
16                  lar amounts specified in clause (i)(III)  
17                  shall be annually increased by the Sec-  
18                  retary by a percentage that reflects the an-  
19                  nual percentage increase in the medical  
20                  care component of the consumer price  
21                  index for all urban consumers.

22                  “(iii) BUDGET NEUTRAL ADJUST-  
23                  MENT.—A State may provide for dollar  
24                  limitations in excess of those specified in  
25                  clause (i)(III) (as increased under clause

1 (ii) for specified individuals if the State  
2 provides assurances satisfactory to the Sec-  
3 retary that contributions otherwise made  
4 to other individuals will be reduced in a  
5 manner so as to provide for aggregate con-  
6 tributions that do not exceed the aggregate  
7 contributions that would otherwise be per-  
8 mitted under this subparagraph.

9 “(D) LIMITATIONS ON FEDERAL MATCH-  
10 ING.—

11 “(i) STATE CONTRIBUTION.—A State  
12 may contribute under subparagraph (A)(i)  
13 amounts to a health opportunity account in  
14 excess of the limitations provided under  
15 subparagraph (C)(i)(III), but no Federal  
16 financial participation shall be provided  
17 under section 1903(a) with respect to con-  
18 tributions in excess of such limitations.

19 “(ii) NO FFP FOR PRIVATE CONTRIBU-  
20 TIONS.—No Federal financial participation  
21 shall be provided under section 1903(a)  
22 with respect to any contributions described  
23 in subparagraph (A)(ii) to a health oppor-  
24 tunity account.

1           “(E) APPLICATION OF DIFFERENT MATCH-  
2           ING RATES.—The Secretary shall provide a  
3           method under which, for expenditures made  
4           from a health opportunity account for medical  
5           care for which the Federal matching rate under  
6           section 1903(a) exceeds the Federal medical as-  
7           sistance percentage, a State may obtain pay-  
8           ment under such section at such higher match-  
9           ing rate for such expenditures.

10          “(3) USE.—

11           “(A) GENERAL USES.—

12           “(i) IN GENERAL.—Subject to the  
13           succeeding provisions of this paragraph,  
14           amounts in a health opportunity account  
15           may be used for payment of such health  
16           care expenditures as the State specifies.

17           “(ii) GENERAL LIMITATION.—In no  
18           case shall such account be used for pay-  
19           ment for health care expenditures that are  
20           not payment of medical care (as defined by  
21           section 213(d) of the Internal Revenue  
22           Code of 1986).

23           “(iii) STATE RESTRICTIONS.—In ap-  
24           plying clause (i), a State may restrict pay-  
25           ment for—

1           “(I) providers of items and serv-  
2           ices to providers that are licensed or  
3           otherwise authorized under State law  
4           to provide the item or service and may  
5           deny payment for such a provider on  
6           the basis that the provider has been  
7           found, whether with respect to this  
8           title or any other health benefit pro-  
9           gram, to have failed to meet quality  
10          standards or to have committed one  
11          or more acts of fraud or abuse; and

12           “(II) items and services insofar  
13          as the State finds they are not medi-  
14          cally appropriate or necessary.

15          “(iv) ELECTRONIC WITHDRAWALS.—  
16          The State demonstration program shall  
17          provide for a method whereby withdrawals  
18          may be made from the account for such  
19          purposes using an electronic system and  
20          shall not permit withdrawals from the ac-  
21          count in cash.

22          “(B) MAINTENANCE OF HEALTH OPPOR-  
23          TUNITY ACCOUNT AFTER BECOMING INELI-  
24          GIBLE FOR PUBLIC BENEFIT.—

1           “(i) IN GENERAL.—Notwithstanding  
2           any other provision of law, if an account  
3           holder of a health opportunity account be-  
4           comes ineligible for benefits under this title  
5           because of an increase in income or as-  
6           sets—

7                       “(I) no additional contribution  
8                       shall be made into the account under  
9                       paragraph (2)(A)(i);

10                      “(II) subject to clause (iii), the  
11                      balance in the account shall be re-  
12                      duced by 25 percent; and

13                      “(III) subject to the succeeding  
14                      provisions of this subparagraph, the  
15                      account shall remain available to the  
16                      account holder for withdrawals under  
17                      the same terms and conditions as if  
18                      the account holder remained eligible  
19                      for such benefits.

20           “(ii) SPECIAL RULES.—Withdrawals  
21           under this subparagraph from an ac-  
22           count—

23                      “(I) shall be available for the  
24                      purchase of health insurance coverage;  
25                      and

1           “(II) may, subject to clause (iv),  
2           be made available (at the option of  
3           the State) for such additional expendi-  
4           tures (such as job training and tuition  
5           expenses) specified by the State (and  
6           approved by the Secretary) as the  
7           State may specify.

8           “(iii) EXCEPTION FROM 25 PERCENT  
9           SAVINGS TO GOVERNMENT FOR PRIVATE  
10          CONTRIBUTIONS.—Clause (i)(II) shall not  
11          apply to the portion of the account that is  
12          attributable to contributions described in  
13          paragraph (2)(A)(ii). For purposes of ac-  
14          counting for such contributions, with-  
15          drawals from a health opportunity account  
16          shall first be attributed to contributions  
17          described in paragraph (2)(A)(i).

18          “(iv) CONDITION FOR NON-HEALTH  
19          WITHDRAWALS.—No withdrawal may be  
20          made from an account under clause (ii)(II)  
21          unless the accountholder has participated  
22          in the program under this section for at  
23          least 1 year.

24          “(v) NO REQUIREMENT FOR CONTINU-  
25          ATION OF COVERAGE.—An account holder

1 of a health opportunity account, after be-  
2 coming ineligible for medical assistance  
3 under this title, is not required to purchase  
4 high-deductible or other insurance as a  
5 condition of maintaining or using the ac-  
6 count.

7 “(4) ADMINISTRATION.—A State may coordi-  
8 nate administration of health opportunity accounts  
9 through the use of a third party administrator and  
10 reasonable expenditures for the use of such adminis-  
11 trator shall be reimbursable to the State in the same  
12 manner as other administrative expenditures under  
13 section 1903(a)(7).

14 “(5) TREATMENT.—Amounts in, or contributed  
15 to, a health opportunity account shall not be counted  
16 as income or assets for purposes of determining eli-  
17 gibility for benefits under this title.

18 “(6) UNAUTHORIZED WITHDRAWALS.—A State  
19 may establish procedures—

20 “(A) to penalize or remove an individual  
21 from the health opportunity account based on  
22 nonqualified withdrawals by the individual from  
23 such an account; and

24 “(B) to recoup costs that derive from such  
25 nonqualified withdrawals.”.

1           **CHAPTER 5—OTHER PROVISIONS**

2   **SEC. 3141. INCREASE IN MEDICAID PAYMENTS TO INSULAR**  
3           **AREAS.**

4           Section 1108(g) of the Social Security Act (42 U.S.C.  
5 1308(g)) is amended—

6           (1) in paragraph (2), by inserting “and subject  
7 to paragraph (3)” after “subsection (f)”; and

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

10           “(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN  
11 INSULAR AREAS.—The amounts otherwise deter-  
12 mined under this subsection for Puerto Rico, the  
13 Virgin Islands, Guam, the Northern Mariana Is-  
14 lands, and American Samoa for fiscal year 2006 and  
15 fiscal year 2007 shall be increased by the following  
16 amounts:

17           “(A) For Puerto Rico, \$12,000,000 for fis-  
18 cal year 2006 and \$12,000,000 for fiscal year  
19 2007.

20           “(B) For the Virgin Islands, \$2,500,000  
21 for fiscal year 2006 and \$5,000,000 for fiscal  
22 year 2007.

23           “(C) For Guam, \$2,500,000 for fiscal year  
24 2006 and \$5,000,000 for fiscal year 2007.



1           (A) IN GENERAL.—Subject to subpara-  
2 graph (B), in the case of a State that has had  
3 approved as of the date of the enactment of this  
4 Act a provider tax on services described in sec-  
5 tion 1903(w)(7)(A)(viii) of the Social Security  
6 Act, as amended by subsection (a), such amend-  
7 ment shall be effective as of October 1, 2008.

8           (B) TRANSITION RULE FOR FISCAL YEAR  
9 2009.—In the case of a State described in sub-  
10 paragraph (A), the amount of any reduction in  
11 payment under subsection (a)(1) of section  
12 1903 of the Social Security Act (42 U.S.C.  
13 1396b) that would otherwise be required under  
14 subsection (w) of such section for calendar  
15 quarters in fiscal year 2009 because of the  
16 amendment made by section (a) shall be re-  
17 duced by one-half.

18 **SEC. 3143. MEDICAID TRANSFORMATION GRANTS.**

19           (a) IN GENERAL.—Section 1903 of the Social Secu-  
20 rity Act (42 U.S.C. 1396b), as amended by section 3123,  
21 is amended by adding at the end the following new sub-  
22 section:

23           “(y) MEDICAID TRANSFORMATION PAYMENTS.—

24           “(1) IN GENERAL.—In addition to the pay-  
25 ments provided under subsection (a), subject to

1 paragraph (4), the Secretary shall provide for pay-  
2 ments to States for the adoption of innovative meth-  
3 ods to improve the effectiveness and efficiency in  
4 providing medical assistance under this title.

5 “(2) PERMISSIBLE USES OF FUNDS.—The fol-  
6 lowing are examples of innovative methods for which  
7 funds provided under this subsection may be used:

8 “(A) Methods for reducing patient error  
9 rates through the implementation and use of  
10 electronic health records, electronic clinical deci-  
11 sion support tools, or e-prescribing programs.

12 “(B) Methods for improving rates of collec-  
13 tion from estates of amounts owed under this  
14 title.

15 “(C) Methods for reducing waste, fraud,  
16 and abuse under the program under this title,  
17 such as reducing improper payment rates as  
18 measured by annual payment error rate meas-  
19 urement (PERM) project rates.

20 “(D) Implementation of a medication risk  
21 management program as part of a drug use re-  
22 view program under section 1927(g).

23 “(3) APPLICATION; TERMS AND CONDITIONS.—

24 “(A) IN GENERAL.—No payments shall be  
25 made to a State under this subsection unless

1 the State applies to the Secretary for such pay-  
2 ments in a form, manner, and time specified by  
3 the Secretary.

4 “(B) TERMS AND CONDITIONS.—Such pay-  
5 ments are made under such terms and condi-  
6 tions consistent with this subsection as the Sec-  
7 retary prescribes.

8 “(C) ANNUAL REPORT.—Payment to a  
9 State under this subsection is conditioned on  
10 the State submitting to the Secretary an annual  
11 report on the programs supported by such pay-  
12 ment. Such report shall include information  
13 on—

14 “(A) the specific uses of such payment;

15 “(B) an assessment of quality improve-  
16 ments and clinical outcomes under such pro-  
17 grams; and

18 “(C) estimates of cost savings resulting  
19 from such programs.

20 “(4) FUNDING.—

21 “(A) LIMITATION ON FUNDS.—The total  
22 amount of payments under this subsection shall  
23 be equal to, and shall not exceed—

24 “(i) \$50,000,000 for fiscal year 2007;

25 and

1                   “(ii) \$50,000,000 for fiscal year 2008.

2                   This subsection constitutes budget authority in  
3                   advance of appropriations Acts and represents  
4                   the obligation of the Secretary to provide for  
5                   the payment of amounts provided under this  
6                   subsection.

7                   “(B) ALLOCATION OF FUNDS.—The Sec-  
8                   retary shall specify a method for allocating the  
9                   funds made available under this subsection  
10                  among States. Such method shall provide pref-  
11                  erence for States that design programs that  
12                  target health providers that treat significant  
13                  numbers of medicaid beneficiaries.

14                  “(C) FORM AND MANNER OF PAYMENT.—  
15                  Payment to a State under this subsection shall  
16                  be made in the same manner as other payments  
17                  under section 1903(a). There is no requirement  
18                  for State matching funds to receive payments  
19                  under this subsection.

20                  “(5) MEDICATION RISK MANAGEMENT PRO-  
21                  GRAM.—

22                  “(A) IN GENERAL.—For purposes of this  
23                  subsection, the term ‘medication risk manage-  
24                  ment program’ means a program for targeted  
25                  beneficiaries that ensures that covered out-

1 patient drugs are appropriately used to opti-  
2 mize therapeutic outcomes through improved  
3 medication use and to reduce the risk of ad-  
4 verse events.

5 “(B) ELEMENTS.—Such program may in-  
6 clude the following elements:

7 “(i) The use of established principles  
8 and standards for drug utilization review  
9 and best practices to analyze prescription  
10 drug claims of targeted beneficiaries and  
11 identify outlier physicians.

12 “(ii) On an ongoing basis provide  
13 outlier physicians—

14 “(I) a comprehensive pharmacy  
15 claims history for each targeted bene-  
16 ficiary under their care;

17 “(II) information regarding the  
18 frequency and cost of relapses and  
19 hospitalizations of targeted bene-  
20 ficiaries under the physician’s care;  
21 and

22 “(III) applicable best practice  
23 guidelines and empirical references.

24 “(iii) Monitor outlier physician’s pre-  
25 scribing, such as failure to refill, dosage

1 strengths, and provide incentives and in-  
2 formation to encourage the adoption of  
3 best clinical practices.

4 “(C) TARGETED BENEFICIARIES.—For  
5 purposes of this paragraph, the term ‘targeted  
6 beneficiaries’ means medicaid eligible bene-  
7 ficiaries who are identified as having high pre-  
8 scription drug costs and medical costs, such as  
9 individuals with behavioral disorders or multiple  
10 chronic diseases who are taking multiple medi-  
11 cations.”.

12 **SEC. 3144. ENHANCING THIRD PARTY IDENTIFICATION AND**  
13 **PAYMENT.**

14 (a) CLARIFICATION OF THIRD PARTIES LEGALLY  
15 RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH  
16 CARE ITEM OR SERVICE.—Section 1902(a)(25) of the So-  
17 cial Security Act (42 U.S.C. 1396a(a)(25)) is amended—

18 (1) in subparagraph (A), in the matter pre-  
19 ceding clause (i)—

20 (A) by inserting “, including self-insured  
21 plans” after “health insurers”; and

22 (B) by striking “and health maintenance  
23 organizations” and inserting “health mainte-  
24 nance organizations, pharmacy benefit man-  
25 agers, or other parties that are, by statute, con-

1           tract, or agreement, legally responsible for pay-  
2           ment of a claim for a health care item or serv-  
3           ice”; and

4           (2) in subparagraph (G)—

5                 (A) by inserting “a self-insured plan,”  
6           after “1974,”; and

7                 (B) by striking “and a health maintenance  
8           organization” and inserting “a health mainte-  
9           nance organization, a pharmacy benefit man-  
10          ager, or other party that is, by statute, con-  
11          tract, or agreement, legally responsible for pay-  
12          ment of a claim for a health care item or serv-  
13          ice”.

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  
23          following:

24                         “(I) that the State shall provide assur-  
25                         ances satisfactory to the Secretary that the

1 State has in effect laws requiring health insur-  
2 ers, including self-insured plans, group health  
3 plans (as defined in section 607(1) of the Em-  
4 ployee Retirement Income Security Act of  
5 1974), service benefit plans, health maintenance  
6 organizations, pharmacy benefit managers, or  
7 other parties that are, by statute, contract, or  
8 agreement, legally responsible for payment of a  
9 claim for a health care item or service, as a  
10 condition of doing 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  
5 the 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  
9 take effect on January 1, 2006.

10 (2) DELAYED EFFECTIVE DATE.—In the case  
11 of a State plan under title XIX of the Social Secu-  
12 rity Act which the Secretary determines requires  
13 State legislation in order for the plan to meet the  
14 additional requirements imposed by the amendments  
15 made by this section, the State plan shall not be re-  
16 garded as failing to comply with the requirements of  
17 such Act solely on the basis of its failure to meet  
18 these additional requirements before the first day of  
19 the first calendar quarter beginning after the close  
20 of the first regular session of the State legislature  
21 that begins after the date of enactment of this Act.  
22 For purposes of the previous sentence, in the case  
23 of a State that has a 2-year legislative session, each  
24 year of the session shall be considered to be a sepa-  
25 rate regular session of the State legislature.

1 **SEC. 3145. IMPROVED ENFORCEMENT OF DOCUMENTATION**  
2 **REQUIREMENTS.**

3 (a) IN GENERAL.—Section 1903 of the Social Secu-  
4 rity 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  
12 medical assistance for an individual who declares  
13 under section 1137(d)(1)(A) to be a citizen or na-  
14 tional of the United States for purposes of estab-  
15 lishing eligibility for benefits under this title, unless  
16 the requirement of subsection (z) is met.”; and

17 (2) by adding at the end, as amended by sec-  
18 tions 3123 and 3143, the following new subsection:

19 “(z)(1) For purposes of subsection (i)(22), the re-  
20 quirement of this subsection is, with respect to an indi-  
21 vidual declaring to be a citizen or national of the United  
22 States, that, subject to paragraph (2), there is presented  
23 satisfactory documentary evidence of citizenship or nation-  
24 ality (as defined in paragraph (3)) of the individual.

1       “(2) The requirement of paragraph (1) shall not  
2 apply to an alien who is eligible for medical assistance  
3 under this 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 se-  
7 curity 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  
13 ‘satisfactory documentary evidence of citizenship or na-  
14 tionality’ 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  
23 Naturalization).

24           “(iii) Form N-560 or N-561 (Certificate of  
25 United States Citizenship).

1           “(iv) Such other document as the Secretary  
2           may specify, by regulation, that provides proof of  
3           United States citizenship or nationality and that  
4           provides a reliable means of documentation of per-  
5           sonal identity.

6           “(C) The following are documents described in this  
7           subparagraph:

8           “(i) A certificate of birth in the United States.

9           “(ii) Form FS-545 or Form DS-1350 (Certifi-  
10          cation of Birth Abroad).

11          “(iii) Form I-97 (United States Citizen Identi-  
12          fication Card).

13          “(iv) Form FS-240 (Report of Birth Abroad of  
14          a Citizen of the United States).

15          “(v) Such other document (not described in  
16          subparagraph (B)(iv)) as the Secretary may specify  
17          that provides proof of United States citizenship or  
18          nationality.

19          “(D) The following are documents described in this  
20          subparagraph:

21          “(i) Any identity document described in section  
22          274A(b)(1)(D) of the Immigration and Nationality  
23          Act.

24          “(ii) Any other documentation of personal iden-  
25          tity of such other type as the Secretary finds, by

1 regulation, provides a reliable means of identifica-  
2 tion.

3 “(E) A reference in this paragraph to a form includes  
4 a reference to any successor form.”

5 (b) **EFFECTIVE DATE.**—The amendments made by  
6 subsection (a) shall apply to determinations of initial eligi-  
7 bility for medical assistance made on or after July 1,  
8 2006, and to redeterminations of eligibility made on or  
9 after such date in the case of individuals for whom the  
10 requirement of section 1903(z) of the Social Security Act,  
11 as added by such amendments, was not previously met.

12 **SEC. 3146. REFORMS OF TARGETED CASE MANAGEMENT.**

13 (a) **IN GENERAL.**—Section 1915(g) of the Social Se-  
14 curity Act (42 U.S.C. 1396n(g)) is amended by striking  
15 paragraph (2) and inserting the following:

16 “(2) For purposes of this subsection:

17 “(A)(i) The term ‘case management services’  
18 means services which will assist individuals eligible  
19 under the plan in gaining access to needed medical,  
20 social, educational, and other services.

21 “(ii) Such term includes the following:

22 “(I) Assessment of an eligible individual to  
23 determine service needs, including activities  
24 that focus on needs identification, to determine  
25 the need for any medical, educational, social, or

1 other services. Such assessment activities in-  
2 clude the following:

3 “(aa) Taking client history.

4 “(bb) Identifying the needs of the in-  
5 dividual, and completing related docu-  
6 mentation.

7 “(cc) Gathering information from  
8 other sources such as family members,  
9 medical providers, social workers, and edu-  
10 cators, if necessary, to form a complete as-  
11 sessment of the eligible individual.

12 “(II) Development of a specific care plan  
13 based on the information collected through an  
14 assessment, that specifies the goals and actions  
15 to address the medical, social, educational, and  
16 other services needed by the eligible individual,  
17 including activities such as ensuring the active  
18 participation of the eligible individual and work-  
19 ing with the individual (or the individual’s au-  
20 thorized health care decision maker) and others  
21 to develop such goals and identify a course of  
22 action to respond to the assessed needs of the  
23 eligible individual.

24 “(III) Referral and related activities to  
25 help an individual obtain needed services, in-

1 including activities that help link eligible individ-  
2 uals with medical, social, educational providers  
3 or other programs and services that are capable  
4 of providing needed services, such as making re-  
5 ferrals to providers for needed services and  
6 scheduling appointments for the individual.

7 “(IV) Monitoring and follow-up activities,  
8 including activities and contacts that are nec-  
9 essary to ensure the care plan is effectively im-  
10 plemented and adequately addressing the needs  
11 of the eligible individual, and which may be  
12 with the individual, family members, providers,  
13 or other entities and conducted as frequently as  
14 necessary to help determine such matters as—

15 “(aa) whether services are being fur-  
16 nished in accordance with an individual’s  
17 care plan;

18 “(bb) whether the services in the care  
19 plan are adequate; and

20 “(cc) whether there are changes in the  
21 needs or status of the eligible individual,  
22 and if so, making necessary adjustments in  
23 the care plan and service arrangements  
24 with providers.

1           “(iii) Such term does not include the direct de-  
2           livery of an underlying medical, educational, social,  
3           or other service to which an eligible individual has  
4           been referred, including, with respect to the direct  
5           delivery of foster care services, services such as (but  
6           not limited to) the following:

7                   “(I) Research gathering and completion of  
8                   documentation required by the foster care pro-  
9                   gram.

10                   “(II) Assessing adoption placements.

11                   “(III) Recruiting or interviewing potential  
12                   foster care parents.

13                   “(IV) Serving legal papers.

14                   “(V) Home investigations.

15                   “(VI) Providing transportation.

16                   “(VII) Administering foster care subsidies.

17                   “(VIII) Making placement arrangements.

18           “(B) The term ‘targeted case management serv-  
19           ices’ means case management services that are fur-  
20           nished without regard to the requirements of section  
21           1902(a)(1) and section 1902(a)(10)(B) to specific  
22           classes of individuals or to individuals who reside in  
23           specified areas.

24           “(3) With respect to contacts with individuals who  
25           are not eligible for medical assistance under the State plan

1 or, in the case of targeted case management services, indi-  
2 viduals who are eligible for such assistance but are not  
3 part of the target population specified in the State plan,  
4 such contacts—

5 “(A) are considered an allowable case manage-  
6 ment activity, when the purpose of the contact is di-  
7 rectly related to the management of the eligible indi-  
8 vidual’s care; and

9 “(B) are not considered an allowable case man-  
10 agement activity if such contacts relate directly to  
11 the identification and management of the noneligible  
12 or nontargeted individual’s needs and care.

13 “(4)(A) In accordance with section 1902(a)(25), Fed-  
14 eral financial participation only is available under this title  
15 for case management services or targeted case manage-  
16 ment services if there are no other third parties liable to  
17 pay for such services, including as reimbursement under  
18 a medical, social, educational, or other program.

19 “(B) A State shall allocate the costs of any part of  
20 such services which are reimbursable under another feder-  
21 ally funded program in accordance with OMB Circular A-  
22 87 (or any related or successor guidance or regulations  
23 regarding allocation of costs among federally funded pro-  
24 grams) under an approved cost allocation program.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on January 1, 2006.

3 **SEC. 3147. EMERGENCY SERVICES FURNISHED BY NON-**  
4 **CONTRACT PROVIDERS FOR MEDICAID MAN-**  
5 **AGED CARE ENROLLEES.**

6 (a) IN GENERAL.—Section 1932(b)(2) of the Social  
7 Security Act (42 U.S.C. 1396u–2(b)(2)) is amended by  
8 adding at the end the following new subparagraph:

9 “(D) EMERGENCY SERVICES FURNISHED  
10 BY NON-CONTRACT PROVIDERS.—Any provider  
11 of emergency services that does not have in ef-  
12 fect a contract with a medicaid managed care  
13 entity that establishes payment amounts for  
14 services furnished to a beneficiary enrolled in  
15 the entity’s medicaid managed care plan must  
16 accept as payment in full the amounts (less any  
17 payments for indirect costs of medical education  
18 and direct costs of graduate medical education)  
19 that it could collect if the beneficiary received  
20 medical assistance under this title other than  
21 through enrollment in such an entity.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect on January 1, 2007.

1 **SEC. 3148. ADJUSTMENT IN COMPUTATION OF MEDICAID**  
2 **FMAP TO DISREGARD AN EXTRAORDINARY**  
3 **EMPLOYER PENSION CONTRIBUTION.**

4 (a) **IN GENERAL.**—Only for purposes of computing  
5 the Federal medical assistance percentage under section  
6 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))  
7 for a State for a fiscal year (beginning with fiscal year  
8 2006), any significantly disproportionate employer pension  
9 contribution described in subsection (b) shall be dis-  
10 regarded in computing the per capita income of such  
11 State, but shall not be disregarded in computing the per  
12 capita income for the continental United States (and Alas-  
13 ka) and Hawaii.

14 (b) **SIGNIFICANTLY DISPROPORTIONATE EMPLOYER**  
15 **PENSION CONTRIBUTION.**—For purposes of subsection  
16 (a), a significantly disproportionate employer pension con-  
17 tribution described in this subsection with respect to a  
18 State for a fiscal year is an employer contribution towards  
19 pensions that is allocated to such State for a period if the  
20 aggregate amount so allocated exceeds 50 percent of the  
21 total increase in personal income in that State for the pe-  
22 riod involved.

1     **Subtitle B—Katrina Health Care**  
2                     **Relief**

3     **SEC. 3201. TARGETED MEDICAID RELIEF FOR STATES AF-**  
4                     **FECTED BY HURRICANE KATRINA.**

5             (a) 100 PERCENT FEDERAL MATCHING PAYMENTS  
6     FOR MEDICAL ASSISTANCE PROVIDED IN KATRINA IM-  
7     PACTED AREAS.—

8             (1) IN GENERAL.—Notwithstanding section  
9             1905(b) of the Social Security Act (42 U.S.C.  
10            1396d(b)), for items and services furnished during  
11            the period that begins on August 28, 2005, and ends  
12            on May 15, 2006, the Federal matching rate for  
13            providing medical assistance for such items and  
14            services under a State Medicaid plan to any indi-  
15            vidual residing in a Katrina impacted parish or  
16            county (as defined in subsection (c)(1)) or to a  
17            Katrina Survivor (as defined in subsection (b)), and  
18            for costs directly attributable to all administrative  
19            activities that relate to the provision of such medical  
20            assistance, shall be 100 percent.

21            (2) APPLICATION TO CHILD HEALTH ASSIST-  
22            ANCE.—Notwithstanding section 2105(b) of the So-  
23            cial Security Act (42 U.S.C. 1397ee(b)), for items  
24            and services furnished during the period described in  
25            paragraph (1), the Federal matching rate for pro-

1       viding child health assistance for such items and  
2       services under a State child health plan under title  
3       XXI of such Act in a Katrina impacted parish or  
4       county or to a Katrina Survivor, and for costs di-  
5       rectly attributable to all administrative activities  
6       that relate to the provision of such child health as-  
7       sistance, shall be 100 percent.

8       (b) KATRINA SURVIVOR.—For purposes of subsection  
9       (a), the term “Katrina Survivor” means an individual  
10      who, on any day during the week preceding August 28,  
11      2005, had a primary residence in a major disaster parish  
12      or county (as defined in subsection (c)).

13      (c) DEFINITIONS.—For purposes of this section:

14           (1) KATRINA IMPACTED PARISH OR COUNTY.—  
15      The term “Katrina impacted parish or county”  
16      means any parish in the State of Louisiana, any  
17      county in the State of Mississippi, and any major  
18      disaster parish or county in the State of Alabama.

19           (2) MAJOR DISASTER PARISH OR COUNTY.—A  
20      major disaster parish or county is a parish of the  
21      State of Louisiana or a county of the State of Mis-  
22      sissippi or Alabama for which a major disaster has  
23      been declared in accordance with section 401 of the  
24      Robert T. Stafford Disaster Relief and Emergency  
25      Assistance Act (42 U.S.C. 5170) as a result of Hur-

1       ricane Katrina and which the President has deter-  
2       mined, as of September 14, 2005, warrants indi-  
3       vidual assistance from the Federal Government  
4       under such Act.

5       **SEC. 3202. STATE HIGH RISK HEALTH INSURANCE POOL**  
6                                   **FUNDING.**

7       There are hereby authorized and appropriated  
8       \$90,000,000 for fiscal year 2006 for grants under sub-  
9       section (b)(1) of section 2745 of the Public Health Service  
10      Act (42 U.S.C. 300gg-45). The amount so appropriated  
11      shall be treated as if it had been appropriated under sub-  
12      section (c)(2) of such section.

13      **SEC. 3203. RECOMPUTATION OF HPSA, MUA, AND MUP DES-**  
14                                   **IGNATIONS WITHIN HURRICANE KATRINA AF-**  
15                                   **FECTED AREAS.**

16      (a) IN GENERAL.—For purposes of the Public Health  
17      Service Act (42 U.S.C. 201 et seq.), the Secretary of  
18      Health and Human Services shall conduct a review of all  
19      Hurricane Katrina disaster areas and, as appropriate tak-  
20      ing into account the lack of availability of health care pro-  
21      viders and services due to Hurricane Katrina—

22                   (1) shall designate such areas as health profes-  
23      sional shortage areas or medically underserved  
24      areas; and

1           (2) shall designate one of more populations of  
2           each such area as a medically underserved popu-  
3           lation.

4           (b) HURRICANE KATRINA DISASTER AREA DE-  
5 FINED.—For purposes of this section, the term “Hurri-  
6 cane Katrina disaster area” means an area for which a  
7 major disaster has been declared in accordance with sec-  
8 tion 401 of the Robert T. Stafford Disaster Relief and  
9 Emergency Assistance Act (42 U.S.C. 5170) as a result  
10 of Hurricane Katrina and which the President has deter-  
11 mined, before September 14, 2005, warrants individual  
12 and public assistance from the Federal Government under  
13 such Act.

14 **SEC. 3204. WAIVER OF CERTAIN REQUIREMENTS APPLICA-**  
15 **BLE TO THE PROVISION OF HEALTH CARE IN**  
16 **AREAS IMPACTED BY HURRICANE KATRINA.**

17           (a) ELIGIBLE AREA.—

18           (1) DEFINITION.—In this section, the term “el-  
19  igible area” means an area identified by the Sec-  
20  retary of Health and Human Services pursuant to  
21  paragraph (2).

22           (2) IDENTIFICATION.—Not later than 30 days  
23  after the date of the enactment of this Act, the Sec-  
24  retary of Health and Human Services shall identify  
25  areas that—

1 (A) have been directly impacted by Hurri-  
2 cane Katrina; or

3 (B) are located in a State which has ab-  
4 sorbed a significant number of Hurricane  
5 Katrina evacuees.

6 (b) HEALTH CENTERS.—For the purpose of deter-  
7 mining whether an entity located in an eligible area quali-  
8 fies as a health center under section 330 of the Public  
9 Health Service Act (42 U.S.C. 254b):

10 (1) BOARD COMPOSITION.—

11 (A) WAIVER.—The Secretary of Health  
12 and Human Services shall waive any require-  
13 ment that a majority of the governing board of  
14 the entity be consumers of the entity's health  
15 care services.

16 (B) RULE OF CONSTRUCTION.—This para-  
17 graph shall not be construed as requiring the  
18 Secretary of Health and Human Services to  
19 waive a requirement that the governing board  
20 of the entity include representation of the con-  
21 sumers of the entity's health care services.

22 (2) MEDICALLY UNDERSERVED POPULATION.—

23 (A) DETERMINATION.—At the request of  
24 the entity, the Secretary of Health and Human  
25 Services shall determine whether, taking into

1 consideration any change in population associ-  
2 ated with Hurricane Katrina, the entity serves  
3 a medically underserved population (as that  
4 term is defined in section 330(b)(3) of the Pub-  
5 lic Health Service Act (42 U.S.C. 254b(b)(3))).

6 (B) DEADLINE.—The Secretary of Health  
7 and Human Services shall make a determina-  
8 tion under subparagraph (A) not later than 60  
9 days after the date on which the Secretary re-  
10 ceives the request for the determination.

11 (C) RESTRICTION.—The Secretary of  
12 Health and Human Services shall not make any  
13 determination under this paragraph on whether  
14 a population has ceased to qualify as a medi-  
15 cally underserved population under section 330  
16 of the Public Health Service Act (42 U.S.C.  
17 254b).

18 (3) REQUIRED PRIMARY HEALTH SERVICES.—  
19 The Secretary of Health and Human Services shall  
20 waive any requirement for the entity to provide pri-  
21 mary health services described in clause (iii), (iv), or  
22 (v) of section 330(b)(1) of the Public Health Service  
23 Act (42 U.S.C. 254b(b)(1)).

24 (c) NATIONAL HEALTH SERVICE CORPS.—Notwith-  
25 standing the provisions of subpart II of part D of title

1 III of the Public Health Service Act (42 U.S.C. 254d et  
2 seq.) requiring that members of the National Health Serv-  
3 ice Corps be assigned to health professional shortage  
4 areas, the Secretary of Health and Human Services may  
5 assign members of the National Health Service Corps to  
6 any eligible area.

7 (d) TERMINATION OF AUTHORITY.—The authority  
8 vested by this section in the Secretary of Health and  
9 Human Services and the Secretary of Homeland Security  
10 shall terminate on the date that is 2 years after enactment  
11 of this Act. The Secretary of Health and Human Services  
12 may not grant any waiver under subsection (b)(1) or  
13 (b)(3) and may not make any assignment of personnel  
14 under subsection (c), and the Secretary of Homeland Se-  
15 curity may not allow any agreement under subsection (d),  
16 for a period extending beyond such date.

17 **SEC. 3205. FMAP HOLD HARMLESS FOR KATRINA IMPACT.**

18 Notwithstanding any other provision of law, for pur-  
19 poses of titles XIX and XXI of the Social Security Act,  
20 the Secretary of Health and Human Services in computing  
21 the Federal medical assistance percentage under section  
22 1905(b) of such (42 U.S.C. 1396d(b)) for any year after  
23 2006 for a State that the Secretary determines has a sig-  
24 nificant number of evacuees who were evacuated to, and  
25 live in, the State as a result of Hurricane Katrina as of

1 October 1, 2005, the Secretary shall disregard such evac-  
2 uees (and income attributable to such evacuees).

3           **Subtitle C—Katrina and Rita**  
4                   **Energy Relief**

5 **SEC. 3301. HURRICANES KATRINA AND RITA ENERGY RE-**  
6                   **LIEF.**

7           (a) FINDINGS.—The Congress finds the following:

8                   (1) Hurricanes Katrina and Rita severely dis-  
9                   rupted crude oil and natural gas production in the  
10                  Gulf of Mexico. The Energy Information Adminis-  
11                  tration estimates that as a result of these two hurri-  
12                  canes, the amount of shut in crude oil production  
13                  nearly doubled to almost 1,600,000 barrels per day,  
14                  and the amount of natural gas production shut in  
15                  also doubled to about 8,000,000,000 cubic feet per  
16                  day. The hurricanes also initially shut down most of  
17                  the crude oil refinery capacity in the Gulf of Mexico  
18                  region. These disruptions led to significantly higher  
19                  prices for crude oil, refined oil products, and natural  
20                  gas.

21                  (2) These production and supply disruptions  
22                  are expected to lead to significantly higher heating  
23                  costs for consumers this winter. The Energy Infor-  
24                  mation Administration projects an increase in resi-  
25                  dential natural gas heating expenditures of 32 per-

1 cent to 61 percent over last winter, with the Midwest  
2 seeing the largest increase. Winter heating oil ex-  
3 penditures are projected to increase by 30 percent to  
4 41 percent over last winter, again with the Midwest  
5 seeing the largest increase. Propane expenditures for  
6 home heating are projected to increase 20 percent to  
7 36 percent over last winter, with the Midwest seeing  
8 the largest projected increase. Expenditures for  
9 home heating using electricity are expected to in-  
10 crease by 2 percent to 9 percent over last winter,  
11 with the South seeing the largest increase. Overall,  
12 average home heating expenditures this winter are  
13 projected to increase about 33 percent, assuming a  
14 normal winter. These significant increases in home  
15 heating costs this winter will particularly harm low-  
16 income consumers. The Low-Income Home Energy  
17 Assistance Program is designed to assist these low  
18 income consumers in this situation. Accordingly,  
19 Congress seeks a one-time only supplement to the  
20 Low-Income Home Energy Assistance Program fund  
21 to assist low income consumers with the additional  
22 home heating expenditures that they will face this  
23 winter as a result of Hurricanes Katrina and Rita.

24 (b) RELIEF.—In addition to amounts otherwise made  
25 available, there shall be directly available to the Secretary

1 of Health and Human Services for a 1-time only obligation  
2 and expenditure \$1,000,000,000 for fiscal year 2006 for  
3 allocation under section 2604(a) through (d) of the Low-  
4 Income Home Energy Assistance Act of 1981 (42 U.S.C.  
5 8623(a) through (d)), for the sole purpose of providing  
6 assistance to offset the anticipated higher energy costs  
7 caused by Hurricane Katrina and Hurricane Rita.

8 (c) SUNSET.—The provisions of this section shall ter-  
9minate, be null and void, and have no force and effect  
10 whatsoever after September 30, 2006. No monies provided  
11 for under this section shall be available after such date.

## 12 **Subtitle D—Digital Television** 13 **Transition**

### 14 **SEC. 3401. SHORT TITLE.**

15 This subtitle may be cited as the “Digital Television  
16 Transition Act of 2005”.

### 17 **SEC. 3402. FINDINGS.**

18 The Congress finds the following:

19 (1) A loophole in current law is stalling the dig-  
20 ital television (DTV) transition and preventing the  
21 return of spectrum for critical public safety and  
22 wireless broadband uses.

23 (A) In 1996, to facilitate the DTV transi-  
24 tion, Congress gave each full-power television  
25 broadcaster an extra channel of spectrum to

1 broadcast in digital format while continuing to  
2 broadcast in analog format on its original chan-  
3 nel. Each broadcaster was supposed to eventu-  
4 ally return either the original or additional  
5 channel and broadcast exclusively in digital for-  
6 mat on the remaining channel.

7 (B) In 1997, Congress earmarked for pub-  
8 lic safety use some of the spectrum the broad-  
9 casters are supposed to return. Congress des-  
10 ignated the rest of the spectrum to be auctioned  
11 for advanced commercial applications, such as  
12 wireless broadband services. Congress set De-  
13 cember 31, 2006, as the deadline for broad-  
14 casters to return the spectrum for public safety  
15 and wireless use.

16 (C) A loophole, however, allows broad-  
17 casters in a market to delay the return of the  
18 spectrum until more than 85 percent of tele-  
19 vision households in that market have at least  
20 one television with access to digital broadcast  
21 channels using a digital television receiver, a  
22 digital-to-analog converter box, or cable or sat-  
23 ellite service. Experts forecast it will take many  
24 more years to meet the 85-percent test nation-  
25 wide.

1           (2) Eliminating the 85-percent test and setting  
2           a “hard deadline” will close the loophole, making  
3           possible the nationwide clearing necessary to com-  
4           plete the DTV transition and free the spectrum for  
5           public safety use.

6           (A) Some police officers, firefighters, and  
7           rescue personnel already have equipment to  
8           communicate over the spectrum the broad-  
9           casters are supposed to return, and are just  
10          awaiting the turnover. Many more public safety  
11          officials cannot purchase equipment or begin  
12          planning without a date certain for the avail-  
13          ability of the spectrum.

14          (B) Five years to the day before Sep-  
15          tember 11, 2001, an advisory committee report  
16          to the Federal Communications Commission  
17          (FCC) noted that public safety officials des-  
18          perately needed more spectrum to better com-  
19          municate with each other in times of emer-  
20          gency. The 9/11 Commission has specifically  
21          recognized the importance of clearing for public  
22          safety use the spectrum at issue here, especially  
23          following the terrorist attacks on the Pentagon  
24          and the World Trade Center. The spectrum is

1           also important for communications during nat-  
2           ural disasters.

3           (3) The certainty of a nationwide hard deadline  
4           will enable consumers, industry, and government to  
5           take the necessary steps to make the transition as  
6           smooth as possible.

7           (A) Under existing law, once a market  
8           meets the 85-percent penetration test, the re-  
9           maining 15 percent of households in the market  
10          would lose access to broadcast programming  
11          unless they obtain a digital television receiver,  
12          a digital-to-analog converter box, or cable or  
13          satellite service.

14          (B) Determining when the 85-percent test  
15          in current law has been met in a particular  
16          market would be extremely difficult for the  
17          FCC to accomplish. Moreover, because no one  
18          can predict precisely when any market will meet  
19          the 85-percent test, and because different mar-  
20          kets will meet the test at different times, con-  
21          sumers, industry, and government cannot ade-  
22          quately plan on a either a local or nationwide  
23          basis.

24          (C) With a hard deadline, government, in-  
25          dustry, and consumer groups can develop con-

1           crete plans for consumer education. Manufac-  
2           turers can build large quantities of low-cost digi-  
3           tal-to-analog converter boxes for consumers  
4           who wish to continue using their analog tele-  
5           visions. Clearing the spectrum on a unified, na-  
6           tionwide basis will also enable the government  
7           to maximize the revenue from the auction.  
8           Some of that revenue can be used to help make  
9           the converter boxes available.

10           (D) The deadline will have little impact on  
11           most television households. The vast majority of  
12           households already subscribe to cable or sat-  
13           ellite services. Allowing cable and satellite oper-  
14           ators to convert digital broadcasts into an ana-  
15           log-viewable format will enable their subscribers  
16           that wish to continue using analog televisions to  
17           do so.

18           (4) Setting a hard deadline will bring con-  
19           sumers and the economy the benefits of the DTV  
20           transition faster.

21           (A) DTV offers sharper and wider pic-  
22           tures, and CD-quality sound. Even consumers  
23           with analog televisions connected to a converter  
24           box or cable or satellite service will receive bet-  
25           ter service than they did before the transition.

1           (B) Once the transition is complete, broad-  
2           casters can redirect the resources they currently  
3           expend running both analog and digital stations  
4           and focus on programming that capitalizes on  
5           the advanced features of digital transmissions.  
6           Manufacturers can also increase the production  
7           of televisions and other consumer electronics  
8           equipment that takes advantage of these fea-  
9           tures, which will also drive down prices.

10          (C) The cleared spectrum can be used to  
11          bring cutting-edge wireless services to public  
12          safety officials and consumers. This spectrum  
13          travels greater distances at lower costs, and  
14          more easily penetrates buildings and foliage.  
15          Consequently, it is ideal to bring mobile  
16          broadband services not only to urban areas, but  
17          to rural areas as well, which currently have very  
18          few cost-effective broadband options.

19          (D) The increase in DTV programming,  
20          services, and equipment, and the provision of  
21          products and services that use the cleared spec-  
22          trum, will improve America's global competitive-  
23          ness and result in significant investment and  
24          innovation, boosting our economy and fostering  
25          new jobs.

1 **SEC. 3403. ANALOG SPECTRUM RECOVERY: HARD DEAD-**  
2 **LINE.**

3 (a) AMENDMENTS.—Section 309(j)(14) of the Com-  
4 munications Act of 1934 (47 U.S.C. 309(j)(14)) is amend-  
5 ed—

6 (1) in subparagraph (A), by striking “December  
7 31, 2006” and inserting “December 31, 2008”;

8 (2) by striking subparagraph (B);

9 (3) in subparagraph (C)(i)(I), by striking “or  
10 (B)”;

11 (4) in subparagraph (D), by striking “subpara-  
12 graph (C)(i)” and inserting “subparagraph (B)(i)”;  
13 and

14 (5) by redesignating subparagraphs (C) and  
15 (D) as subparagraphs (B) and (C), respectively.

16 (b) IMPLEMENTATION.—

17 (1) DTV ALLOTMENT TABLE OF IN-CORE  
18 CHANNELS FOR FULL-POWER STATIONS.—The Fed-  
19 eral Communications Commission shall—

20 (A) release by December 31, 2006, a re-  
21 port and order in MB Docket No. 03–15 as-  
22 signing all full-power broadcast television sta-  
23 tions authorized in the digital television service  
24 a channel between channels 2 and 36, inclusive,  
25 or 38 and 51, inclusive (between frequencies 54  
26 and 698 megahertz, inclusive);

1 (B) release by July 31, 2007, any recon-  
2 sideration of such report and order; and

3 (C) not adopt any further changes between  
4 July 31, 2007, and January 1, 2009, to the  
5 channels assigned to full-power broadcast tele-  
6 vision stations for the provision of digital tele-  
7 vision service unless doing so is necessary for  
8 reasons of public safety or necessary to prevent  
9 a delay in the end of broadcasting by full-power  
10 stations in the analog television service.

11 (2) STATUS REPORTS.—Beginning with a re-  
12 port on January 31, 2006, and ending with a report  
13 on July 31, 2007, the Commission shall submit re-  
14 ports to the Committee on Energy and Commerce of  
15 the House of Representatives and the Committee on  
16 Commerce, Science, and Transportation of the Sen-  
17 ate every six months on the status of international  
18 coordination with Canada and Mexico of the digital  
19 television service table of allotments.

20 (3) TERMINATIONS OF ANALOG LICENSES AND  
21 BROADCASTING.—The Federal Communications  
22 Commission shall take such actions as are necessary  
23 to terminate all licenses for full-power television sta-  
24 tions in the analog television service and to require

1 the cessation of broadcasting by full-power stations  
2 in the analog television service by January 1, 2009.

3 (4) **ADDITIONAL UNLICENSED SPECTRUM FOR**  
4 **WIRELESS BROADBAND.**—The Commission shall,  
5 within one year after the date of enactment of this  
6 Act, issue a final order in the matter of Unlicensed  
7 Operation in the TV Broadcast Bands (ET Docket  
8 No. 04–186).

9 (c) **TECHNICAL AMENDMENT.**—Paragraph (15) of  
10 section 309(j) of the Communications Act of 1934 (47  
11 U.S.C. 309(j)), as added by section 203(b) of the Com-  
12 mercial Spectrum Enhancement Act (P.L. 108–494; 118  
13 Stat. 3993), is redesignated as paragraph (16) of such  
14 section.

15 **SEC. 3404. AUCTION OF RECOVERED SPECTRUM.**

16 (a) **DEADLINE FOR AUCTION.**—Section  
17 309(j)(15)(C) of the Communications Act of 1934 (47  
18 U.S.C. 309(j)(15)(C)) is amended by adding at the end  
19 the following new clauses:

20 “(v) **ADDITIONAL DEADLINES FOR RE-**  
21 **COVERED ANALOG SPECTRUM.**—Notwith-  
22 standing subparagraph (B), the Commis-  
23 sion shall conduct the auction of the li-  
24 censes for recovered analog spectrum by  
25 commencing the bidding not later than

1           January 7, 2008, and shall deposit the  
2           proceeds of such auction in accordance  
3           with paragraph (8)(E)(i) not later than  
4           June 30, 2008.

5           “(vi) RECOVERED ANALOG SPEC-  
6           TRUM.—For purposes of clause (v), the  
7           term ‘recovered analog spectrum’ means  
8           the spectrum between channels 52 and 69,  
9           inclusive (between frequencies 698 and 806  
10          megahertz, inclusive) reclaimed from ana-  
11          log television service broadcasting under  
12          paragraph (14), other than—

13                   “(I) the spectrum required by  
14                   section 337 to be made available for  
15                   public safety services; and

16                   “(II) the spectrum auctioned  
17                   prior to the date of enactment of the  
18                   Digital Television Transition Act of  
19                   2005.”.

20          (b) EXTENSION OF AUCTION AUTHORITY.—Para-  
21 graph (11) of section 309(j) of such Act is repealed.

22          (c) STUDY OF AUCTION AUTHORITY.—

23                  (1) INQUIRY AND STUDY REQUIRED.—Within  
24          120 days after the date of enactment of this Act, the

1 Federal Communications Commission shall initiate  
2 an ongoing inquiry and study—

3 (A) to evaluate the participation of women,  
4 minorities, and small businesses in the auction  
5 process, including the percentage of winning  
6 bidders that are women, minorities, and small  
7 businesses; and

8 (B) to assess the efforts made by the Com-  
9 mission to ensure that women, minorities, and  
10 small businesses are able to successfully partici-  
11 pate in the auction process.

12 (2) REPORT.—The Commission shall submit a  
13 report to the Congress on the results of the inquiry  
14 and study required by paragraph (1) at least bienni-  
15 ally beginning not later than one year after the date  
16 of enactment of this Act.

17 **SEC. 3405. DIGITAL TELEVISION CONVERSION FUND.**

18 (a) RESERVATION OF AUCTION PROCEEDS TO ASSIST  
19 CONVERSION.—Section 309(j)(8) of the Communications  
20 Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

21 (1) in subparagraph (A), by striking “subpara-  
22 graph (B) or subparagraph (D)” and inserting “sub-  
23 paragraphs (B), (D), and (E)”;

1           (2) in subparagraph (C)(i), by inserting before  
2 the semicolon at the end the following: “, except as  
3 otherwise provided in subparagraph (E)(i)”;

4           (3) by adding at the end the following new sub-  
5 paragraph:

6                   “(E) TRANSFER OF REVENUES FOR DIG-  
7 ITAL TELEVISION CONVERSION.—

8                   “(i) PROCEEDS FOR DTV CONVERSION  
9 FUND.—Notwithstanding subparagraph  
10 (A), of the proceeds (including deposits  
11 and upfront payments from successful bid-  
12 ders) from the use of a competitive bidding  
13 system under this subsection with respect  
14 to recovered analog spectrum—

15                   “(I) \$990,000,000 shall be de-  
16 posited in a separate fund in the  
17 Treasury to be known as the ‘Digital  
18 Television Conversion Fund’, and be  
19 available exclusively to carry out sec-  
20 tion 159 of the National Tele-  
21 communications and Information Ad-  
22 ministration Organization Act;

23                   “(II) \$500,000,000 shall be de-  
24 posited in a separate fund in the  
25 Treasury to be known as the ‘Public

1 Safety Interoperable Communications  
2 Fund’, and be available exclusively to  
3 carry out section 160 of such Act;

4 “(III) \$30,000,000 shall be de-  
5 posited in a separate fund in the  
6 Treasury to be known as the ‘NYC 9/  
7 11 Digital Transition Fund’, and be  
8 available exclusively to carry out sec-  
9 tion 161 of such Act;

10 “(IV) \$3,000,000 shall be depos-  
11 ited in a separate fund in the Treas-  
12 ury to be known as the ‘Low-Power  
13 Digital-to-Analog Conversion Fund’,  
14 and be available exclusively to carry  
15 out section 162 of such Act; and

16 “(V) the remainder of such pro-  
17 ceeds shall be deposited in the Treas-  
18 ury in accordance with chapter 33 of  
19 title 31, United States Code.

20 “(ii) RECOVERED ANALOG SPEC-  
21 TRUM.—For purposes of clause (i), the  
22 term ‘recovered analog spectrum’ has the  
23 meaning provided in paragraph  
24 (15)(C)(vi).”.

1 (b) CONVERTER BOX PROGRAM.—Part C of the Na-  
2 tional Telecommunications and Information Administra-  
3 tion Organization Act is amended by adding at the end  
4 the following new section:

5 **“SEC. 159. DIGITAL-TO-ANALOG CONVERTER BOX PRO-**  
6 **GRAM.**

7 “(a) CREATION OF PROGRAM.—The Assistant Sec-  
8 retary—

9 “(1) shall use the funds available under sub-  
10 section (d) of this section to implement and admin-  
11 ister a program through which households in the  
12 United States may obtain, upon request, up to two  
13 coupons that can be applied toward the purchase of  
14 digital-to-analog converter boxes, subject to the re-  
15 strictions in this section and the regulations created  
16 thereunder; and

17 “(2) may award one or more contracts (includ-  
18 ing a contract with another Federal agency) for the  
19 administration of some or all of the program.

20 “(b) PROGRAM SPECIFICATIONS.—

21 “(1) FORM OF COUPON REQUEST.—The regula-  
22 tions under this section shall prescribe the contents  
23 of the coupon request form and the information any  
24 household seeking a coupon shall provide on the  
25 form. The coupon request form shall be required to

1 include instructions for its use and also describe, at  
2 a minimum, the requirements and limitations of the  
3 program, the ways in which the form and the infor-  
4 mation the household provides will be used, and to  
5 whom the form and the information will be dis-  
6 closed.

7 “(2) DISTRIBUTION OF COUPON REQUEST  
8 FORMS.—

9 “(A) PAPER AND ELECTRONIC FORMS.—

10 The Assistant Secretary shall provide for the  
11 distribution of paper coupon request forms at  
12 Government buildings, including post offices.  
13 The Assistant Secretary shall provide for the  
14 availability to households of electronic coupon  
15 request forms, and may permit such forms to  
16 be submitted electronically.

17 “(B) ADDITIONAL DISTRIBUTION.—If the  
18 Assistant Secretary determines that doing so  
19 would make the program more successful and  
20 easier for consumers to participate in, paper  
21 and electronic coupon request forms shall also  
22 be distributed by such private entities as the  
23 Assistant Secretary shall specify (such as retail-  
24 ers, manufacturers, broadcasters, religious or-  
25 ganizations, and consumer groups) and shall be

1 distributed in the manner specified by the As-  
2 sistant Secretary.

3 “(3) LIMITATIONS.—

4 “(A) TWO-PER-HOUSEHOLD MAXIMUM.—A  
5 household may obtain coupons only by making  
6 a request as required by the regulations under  
7 this section. Any request must be made between  
8 January 1, 2008, and January 31, 2009, inclu-  
9 sive. The Assistant Secretary shall ensure that  
10 each requesting household receives no more  
11 than two coupons.

12 “(B) NO COMBINATIONS OF COUPONS.—  
13 Two coupons may not be used in combination  
14 toward the purchase of a single digital-to-ana-  
15 log converter box.

16 “(C) DURATION.—All coupons shall expire  
17 3 months after issuance.

18 “(4) DISTRIBUTION OF COUPONS.—

19 “(A) Coupons shall be distributed to re-  
20 questing households by mail and each coupon  
21 shall be issued in the name of a member of the  
22 requesting household, and shall include a  
23 unique identification number as well as any  
24 other measures the Assistant Secretary deems

1 necessary to minimize fraud, counterfeiting, du-  
2 plication, and other unauthorized use.

3 “(B) Included on or provided with each  
4 coupon shall be, at a minimum, instructions for  
5 the coupon’s use and a description of the cou-  
6 pon’s limitations.

7 “(C) The Assistant Secretary shall expend  
8 not more than \$160,000,000 on administrative  
9 expenses and shall ensure that the sum of all  
10 administrative expenses for the program and  
11 the total maximum value of all the coupons re-  
12 deemed, and issued but not expired, does not  
13 exceed \$990,000,000.

14 “(D) The Assistant Secretary may expend  
15 up to \$5,000,000 of the administrative expenses  
16 on the public outreach program required by sec-  
17 tion 330(d)(4) of the Communications Act of  
18 1934 (47 U.S.C. 330(d)(4)). Such funds may  
19 be used for grants to the Association of Public  
20 Television Stations, in partnership with non-  
21 commercial educational television broadcast sta-  
22 tions (as defined section 397(6) of the Commu-  
23 nications Act of 1934 (47 U.S.C. 397(6))) to  
24 carry out such public outreach.

25 “(5) QUALIFYING PURCHASES.—

1           “(A) QUALIFYING BOX.—The regulations  
2           shall specify methods for determining and iden-  
3           tifying the converter boxes that meet the defini-  
4           tion in subsection (g).

5           “(B) COUPON VALUE.—The value of each  
6           coupon shall be \$40.

7           “(6) REDEMPTION OF COUPONS.—No coupon  
8           shall be redeemed except upon submission of reason-  
9           able proof that the individual redeeming the coupon  
10          is the individual named on the coupon, and such ad-  
11          ditional information as is required by the regulations  
12          under this section. In the case of retail distribution  
13          of digital-to-analog converter boxes over the Internet  
14          or by telephone, submission of a valid credit card  
15          number issued in the name of the household mem-  
16          ber, the unique identification number on the coupon,  
17          the address of the household, and such other infor-  
18          mation as is required by the regulations under this  
19          section shall be reasonable proof of identity, except  
20          that the redemption of coupons over the Internet or  
21          by telephone shall be prohibited if the Assistant Sec-  
22          retary determines that such redemption would be  
23          unreasonably susceptible to fraud or other abuse.

24          “(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,  
8 retailers shall be informed of the program’s de-  
9 tails and their rights and obligations, including  
10 their obligations to honor all valid coupons that  
11 are tendered in the authorized manner, and to  
12 keep a reasonable number of eligible converter  
13 boxes 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  
24 reimbursements.

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,  
23           or other misconduct in connection with the program,  
24           or that otherwise violate this section or such regula-  
25           tions.

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 iden-  
17          tifiable 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 Tele-  
21          vision Conversion Fund established by section  
22          309(j)(8)(E)(i)(I) of the Communications Act of  
23          1934, there shall be available to carry out this sec-  
24          tion such sums as may be necessary for fiscal years  
25          2008 and 2009. Any sums that remain unexpended

1 in the Fund at the end of fiscal year 2009 shall re-  
2 vert to and be deposited in the general fund of the  
3 Treasury.

4 “(2) CREDIT.—The Assistant Secretary may  
5 borrow from the Treasury such sums as may be nec-  
6 essary not to exceed \$990,000,000 to implement and  
7 administer the program in accordance with this sec-  
8 tion. The Assistant Secretary shall reimburse the  
9 Treasury, without interest, as funds are deposited  
10 into the Digital Television Conversion Fund under  
11 section 309(j)(8)(E) of such Act.

12 “(e) ENERGY STANDARDS REQUIRED.—

13 “(1) STANDARD.—The maximum energy con-  
14 sumption for the passive standby mode of a digital-  
15 to-analog converter box shall be no more than 9  
16 watts.

17 “(2) ENFORCEMENT.—The Secretary of Energy  
18 shall enforce the requirements of paragraph (1). Any  
19 converter box that the Secretary of Energy deter-  
20 mines is not in compliance with the requirements of  
21 paragraph (1) shall not be eligible for purchase with  
22 assistance made available under this section.

23 “(3) PREEMPTION.—No State or any political  
24 subdivision thereof may establish or enforce any law,  
25 rule, regulation, or other provision having the force

1 of law that regulates the energy output, usage, or  
2 consumption standards for a digital-to-analog con-  
3 verter box.

4 “(f) IMPLEMENTATION.—The Secretary of Commerce  
5 shall promulgate, within 9 months after the date of enact-  
6 ment of the Digital Television Transition Act of 2005,  
7 such regulations as are necessary to carry out this section.

8 “(g) DEFINITION.—For purposes of this section:

9 “(1) DIGITAL-TO-ANALOG CONVERTER BOX.—

10 The term ‘digital-to-analog converter box’ means a  
11 stand-alone device that does not contain features or  
12 functions except those necessary to enable a con-  
13 sumer to convert any channel broadcast in the dig-  
14 ital television service into a format that the con-  
15 sumer can display on television receivers designed to  
16 receive and display signals only in the analog tele-  
17 vision service.

18 “(2) HOUSEHOLD.—The term ‘household’  
19 means the residents at a residential street or rural  
20 route address, and shall not include a post office  
21 box.

22 “(3) STANDBY PASSIVE MODE.—The term  
23 ‘standby passive mode’ means a low power state the  
24 digital-to-analog converter device enters while con-  
25 nected to a power source which fulfills not the main

1 function but can be switched into another mode by  
2 means of an internal or external signal.”.

3 **SEC. 3406. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**  
4 **TIONS FUND.**

5 Part C of the National Telecommunications and In-  
6 formation Administration Organization Act is amended by  
7 adding after section 159 (as added by section 3405(b) of  
8 this Act) the following new section:

9 **“SEC. 160. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**  
10 **TIONS FUND.**

11 “(a) PROGRAM AUTHORIZED.—From the funds avail-  
12 able under subsection (f), the Assistant Secretary shall  
13 carry out a grant program to assist public safety agencies  
14 in the acquisition of, deployment of, or training for the  
15 use of interoperable communications systems that utilize,  
16 or enable interoperability with communications systems  
17 that can utilize, reallocated public safety spectrum for  
18 radio communications.

19 “(b) TERMS AND CONDITIONS OF GRANTS.—In order  
20 to obtain a grant under this section, a public safety agency  
21 shall—

22 “(1) submit an application to the Assistant Sec-  
23 retary at such time, in such form, and containing or  
24 accompanied by such information and assurances as  
25 the Assistant Secretary shall require;

1           “(2) agree that, if awarded a grant, the public  
2           safety agency will submit annual reports to the As-  
3           sistant Secretary for the duration of the grant  
4           award period with respect to—

5                   “(A) the expenditure of grant funds; and

6                   “(B) progress toward acquiring and de-  
7           ploying interoperable communications systems  
8           funded by the grant;

9           “(3) agree to provide, from non-Federal  
10          sources, not less than 20 percent of the costs of ac-  
11          quiring and deploying the interoperable communica-  
12          tions systems acquired and deployed with funds pro-  
13          vided under this section; and

14          “(4) agree to remit to the Assistant Secretary  
15          any grant funds that remain unexpended at the end  
16          of the 3-year period of the grant.

17          “(c) DURATION OF GRANT; RECOVERY OF UNUSED  
18          FUNDS.—Grants under this section shall be awarded in  
19          the form of a single grant for a period of not more than  
20          3 years. At the end of 3 years, any grant funds that re-  
21          main unexpended shall be remitted by the grantee to the  
22          Assistant Secretary, and, subject to subsection (f)(2), may  
23          be awarded to other eligible grant recipients. At the end  
24          of fiscal year 2010, any such reawarded grant funds that  
25          remain unexpended shall be remitted by the grantee to the

1 Assistant Secretary and may not be reawarded to other  
2 grantees.

3 “(d) OVERSIGHT OF EXPENDITURES.—The Assistant  
4 Secretary shall submit to the Committee on Commerce,  
5 Science, and Transportation of the Senate and the Com-  
6 mittee on Energy and Commerce, not later than 6 months  
7 after the first award of a grant under this section and  
8 every 6 months thereafter until October 1, 2010, a re-  
9 port—

10 “(1) identifying, on a State-by-State basis,  
11 using the information submitted under subsection  
12 (b)(2), the results of the program, including an iden-  
13 tification, on a State-by-State basis, of—

14 “(A) the public safety agencies awarded a  
15 grant;

16 “(B) the amount of the grant;

17 “(C) the specified use for the grant; and

18 “(D) how each such grant was spent; and

19 “(2) stating the cumulative total of the amount  
20 of grants awarded, and the balance, if any, remain-  
21 ing in the Public Safety Interoperable Communica-  
22 tions Fund; and

23 “(3) in the final such report, stating the  
24 amount in the Fund that reverted to the general  
25 fund of the Treasury.

1       “(e) REGULATIONS.—The Secretary is authorized to  
2 prescribe such regulations as are necessary to carry out  
3 this section.

4       “(f) AVAILABILITY OF FUNDS.—

5           “(1) AVAILABILITY.—From the Public Safety  
6 Interoperable Communications Fund established by  
7 section 309(j)(8)(E)(i)(II) of the Communications  
8 Act of 1934, there shall be available to carry out  
9 this section such sums as may be necessary for fiscal  
10 years 2008, 2009, and 2010.

11           “(2) REVERSION.—Any sums that remain unex-  
12 pended in the Fund at the end of fiscal year 2010  
13 shall revert to and be deposited in the general fund  
14 of the Treasury.

15       “(g) DEFINITIONS.—For purposes of this section:

16           “(1) PUBLIC SAFETY AGENCY.—The term ‘pub-  
17 lic safety agency’ means any State or local govern-  
18 ment entity, or nongovernmental organization au-  
19 thorized by such entity, whose sole or principal pur-  
20 pose is to protect the safety of life, health, or prop-  
21 erty.

22           “(2) INTEROPERABLE COMMUNICATIONS SYS-  
23 TEMS.—The term ‘interoperable communications  
24 systems’ means communications systems which en-  
25 able public safety agencies to share information

1       amongst local, State, and Federal public safety  
2       agencies in the same area via voice or data signals.

3               “(3) REALLOCATED PUBLIC SAFETY SPEC-  
4       TRUM.—The term ‘reallocated public safety spec-  
5       trum’ means the bands of spectrum located at 764  
6       -776 megahertz and 794–806 megahertz, inclusive.”.

7       **SEC. 3407. NYC 9/11 DIGITAL TRANSITION FUND.**

8       Part C of the National Telecommunications and In-  
9       formation Administration Organization Act is amended by  
10      adding after section 160 (as added by section 3406 of this  
11      Act) the following new section:

12      **“SEC. 161. NYC 9/11 DIGITAL TRANSITION FUND.**

13              “(a) FUNDS AVAILABLE.—From the NYC 9/11 Dig-  
14      ital Transition Fund established by section  
15      309(j)(8)(E)(i)(III) of the Communications Act of 1934,  
16      there shall be available to carry out this section such sums  
17      as may be necessary for fiscal years 2006 through 2008.  
18      Any sums that remain unexpended in the Fund at the end  
19      of fiscal year 2008 shall revert to and be deposited in the  
20      general fund of the Treasury. The Assistant Secretary  
21      may borrow from the Treasury such sums as may be nec-  
22      essary not to exceed \$30,000,000 to implement and ad-  
23      minister the program in accordance with this section. The  
24      Assistant Secretary shall reimburse the Treasury, without

1 interest, as funds are deposited into the NYC 9/11 Digital  
2 Transition Fund under section 309(j)(8)(E) of such Act.

3 “(b) USE OF FUNDS.—The sums available under  
4 subsection (a) shall be made available by the Assistant  
5 Secretary by grant to be used to reimburse the Metropoli-  
6 tan Television Alliance for costs incurred in the design and  
7 deployment of a temporary digital television broadcast sys-  
8 tem to ensure that, until a permanent facility atop the  
9 Freedom Tower is constructed, the members of the Metro-  
10 politan Television Alliance can provide the New York City  
11 area with an adequate digital television signal as deter-  
12 mined by the Federal Communications Commission.

13 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be construed to alter or otherwise affect the Fed-  
15 eral Communications Commission’s authority with respect  
16 to licensing and interference regulation.

17 “(d) DEFINITIONS.—For purposes of this section:

18 “(1) The term ‘Metropolitan Television Alli-  
19 ance’ means the organization formed by New York  
20 City television broadcast station licensees to locate  
21 new shared facilities as a result of the attacks on  
22 September 11, 2001 and the loss of use of shared  
23 facilities that housed broadcast equipment.

24 “(2) The term ‘New York City area’ means the  
25 five counties comprising New York City and counties

1 of northern New Jersey in immediate proximity to  
2 New York City (Bergen, Essex, Union and Hudson  
3 Counties) .”.

4 **SEC. 3408. LOW-POWER TELEVISION TRANSITION PROVI-**  
5 **SIONS.**

6 (a) REMOVAL AND RELOCATION.—Section 337(e) of  
7 the Communications Act of 1934 (47 U.S.C. 337(e)) is  
8 amended—

9 (1) in paragraph (1), by striking “person who”  
10 and inserting “full-power television station licensee  
11 that”;

12 (2) in paragraph (2), by striking “746 mega-  
13 hertz” and inserting “698 megahertz”; and

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

16 “(3) CONTINUATION OF LOW-POWER BROAD-  
17 CASTING.—Subject to section 336(f) of the Commu-  
18 nications Act (47 U.S.C. 336(f)), a low-power tele-  
19 vision station, television translator station, or tele-  
20 vision booster station (as defined by Commission  
21 regulations) may operate above 698 megahertz on a  
22 secondary basis in accordance with Commission  
23 rules, including rules governing completion of the  
24 digital television service transition for low-power  
25 broadcasters.”.

1 (b) EXEMPTION FROM DEADLINE.—Section  
2 309(j)(14)(A) of such Act (47 U.S.C. 309(j)(14)(A)) is  
3 amended by by inserting “full-power” before “television  
4 broadcast license”.

5 (c) ADVANCED TELEVISION SERVICES.—Section  
6 336(f)(4) of such Act (47 U.S.C. 336(f)(4)) is amended  
7 by inserting “or other low-power station” after “television  
8 translator station” in the first sentence.

9 (d) LOW-POWER TELEVISION DIGITAL-TO-ANALOG  
10 CONVERSION.—Part C of the National Telecommuni-  
11 cations and Information Administration Organization Act  
12 is amended by adding after section 161 (as added by sec-  
13 tion 3407 of this Act) the following new section:

14 **“SEC. 162. LOW-POWER TELEVISION DIGITAL-TO-ANALOG**  
15 **CONVERSION.**

16 “(a) CREATION OF PROGRAM.—The Assistant Sec-  
17 retary shall use the funds available under subsection (d)  
18 from the Low-Power Digital-to-Analog Conversion Fund  
19 to implement and administer a program through which  
20 each eligible low-power television station may receive com-  
21 pensation toward the cost of the purchase of a digital-to-  
22 analog conversion device that enables it to convert the in-  
23 coming digital signal of its corresponding full-power tele-  
24 vision station to analog format for transmission on the  
25 low-power television station’s analog channel. An eligible

1 low-power television station may receive such compensa-  
2 tion only if it submits a request for such compensation  
3 on or before December 31, 2008.

4 “(b) ELIGIBLE STATIONS.—For purposes of this sec-  
5 tion, an eligible low-power television station shall be a low-  
6 power television broadcast station, Class A television sta-  
7 tion, television translator station, or television booster sta-  
8 tion—

9 “(1) that is itself broadcasting exclusively in  
10 analog format; and

11 “(2) that has not purchased a digital-to-analog  
12 conversion device prior to enactment of this section.

13 “(c) QUALIFYING DEVICES AND AMOUNTS.—The As-  
14 sistant Secretary—

15 “(1) may determine the types of digital-to-ana-  
16 log conversion devices for which an eligible low-  
17 power broadcast television station may receive com-  
18 pensation under this section; and

19 “(2) shall determine the maximum amount of  
20 compensation such a low-power television broadcast  
21 station may receive based on the average cost of  
22 such digital-to-analog conversion devices during the  
23 time period such low-power broadcast television sta-  
24 tion purchased the digital-to-analog conversion de-

1 vice, but in no case shall such compensation exceed  
2 \$400.

3 “(d) FUNDS AVAILABLE.—From the Low-Power  
4 Digital-to-Analog Conversion Fund established by section  
5 309(j)(8)(E)(i)(IV) of the Communications Act of 1934,  
6 there shall be available to carry out this section such sums  
7 as may be necessary for fiscal years 2008 and 2009. Any  
8 sums that remain unexpended in such Fund at the end  
9 of fiscal year 2009 shall revert to and be deposited in the  
10 general fund of the Treasury.”.

11 (e) REPORT AND ORDER REQUIRED.—The Federal  
12 Communications Commission shall, not later than Decem-  
13 ber 31, 2008, issue a report and order specifying the  
14 methods and schedule by which the Commission will com-  
15 plete the digital television service transition for low-power  
16 broadcasters.

17 **SEC. 3409. CONSUMER EDUCATION REGARDING ANALOG**  
18 **TELEVISIONS.**

19 (a) COMMISSION AUTHORITY.—Section 303 of the  
20 Communications Act of 1934 (47 U.S.C. 303) is amended  
21 by adding at the end the following new subsection:

22 “(z) Require the consumer education measures speci-  
23 fied in section 330(d) in the case of apparatus designed  
24 to receive television signals that—

1           “(1) are shipped in interstate commerce or  
2           manufactured in the United States;

3           “(2) have an integrated display screen or are  
4           sold in a bundle with a display screen; and

5           “(3) are not capable of receiving broadcast sig-  
6           nals in the digital television service.”.

7           (b) CONSUMER EDUCATION REQUIREMENTS.—Sec-  
8           tion 330 of the Communications Act of 1934 (47 U.S.C.  
9           330) is amended—

10           (1) in subsection (d), by striking “sections  
11           303(s), 303(u), and 303(x)” and inserting “sub-  
12           sections (s), (u), (x), and (z) of section 303”;

13           (2) by redesignating subsection (d) as sub-  
14           section (e); and

15           (3) by inserting after subsection (c) the fol-  
16           lowing new subsection:

17           “(d) CONSUMER EDUCATION REGARDING ANALOG  
18           TELEVISION RECEIVERS.—

19           “(1) REQUIREMENTS FOR MANUFACTURERS.—  
20           Any manufacturer of any apparatus described in  
21           section 303(z) shall—

22           “(A) place in a conspicuous place on any  
23           such apparatus that such manufacturer ships in  
24           interstate commerce or manufactures in the  
25           United States after 180 days after the date of

1 enactment of the Digital Television Transition  
2 Act of 2005, a label containing, in clear and  
3 conspicuous print, the warning language re-  
4 quired by paragraph (3); and

5 “(B) also include after 180 days after the  
6 date of enactment of the Digital Television  
7 Transition Act of 2005, such warning language  
8 on the outside of the retail packaging of such  
9 apparatus, in a conspicuous place and in clear  
10 and conspicuous print, in a manner that cannot  
11 be removed.

12 “(2) REQUIREMENTS FOR RETAIL DISTRIBUTU-  
13 TORS.—Any retail distributor shall place conspicu-  
14 ously in the vicinity of each apparatus described in  
15 section 303(z) that such distributor displays for sale  
16 or rent after 45 days after the date of enactment of  
17 the Digital Television Transition Act of 2005, a sign  
18 containing, in clear and conspicuous print, the warn-  
19 ing language required by paragraph (3). In the case  
20 of a retail distributor vending such apparatus via di-  
21 rect mail, catalog, or electronic means, such as dis-  
22 plays on the Internet, the warning language required  
23 by such paragraph shall be prominently displayed, in  
24 clear and conspicuous print, in the vicinity of any  
25 language describing the product.

1           “(3) WARNING LANGUAGE.—The warning lan-  
2           guage required by this paragraph shall read as fol-  
3           lows: ‘This television has only an analog broadcast  
4           tuner. After December 31, 2008, television broad-  
5           casters will broadcast only in digital format. You will  
6           then need to connect this television to a digital-to-  
7           analog converter box or cable or satellite service if  
8           you wish to receive broadcast programming. The de-  
9           vice, if any, that a cable or satellite subscriber will  
10          need to connect to an analog television will depend  
11          on the cable or satellite service provider. The tele-  
12          vision should continue to work as before, however,  
13          with devices such as VCRs, digital video recorders,  
14          DVD players, and video game systems. For more in-  
15          formation, call the Federal Communications Com-  
16          mission at 1–888–225–5322 (TTY: 1–888–835–  
17          5322) or visit the Commission’s website at:  
18          www.fcc.gov.’.

19          “(4) COMMISSION AND NTIA OUTREACH.—Be-  
20          ginning within one month after the date of enact-  
21          ment of the Digital Television Transition Act of  
22          2005, the Commission and the National Tele-  
23          communications and Information Administration  
24          shall engage, either jointly or separately, in a public  
25          outreach program, including the distribution of ma-

1 materials on their web sites and in Government build-  
2 ings, such as post offices, to educate consumers re-  
3 garding the digital television transition. The Com-  
4 mission and the National Telecommunications and  
5 Information Administration may seek public com-  
6 ment in crafting their public outreach program, and  
7 may seek the assistance of private entities, such as  
8 broadcasters, manufacturers, retailers, cable and  
9 satellite operators, and consumer groups in admin-  
10 istering the public outreach program. The program  
11 shall educate consumers about—

12 “(A) the deadline for termination of analog  
13 television broadcasting;

14 “(B) the options consumers have after  
15 such termination to continue to receive broad-  
16 cast programming; and

17 “(C) the converter box program under sec-  
18 tion 159 of the National Telecommunications  
19 and Information Administration Organization  
20 Act.

21 “(5) ADDITIONAL DISCLOSURES.—

22 “(A) ANNOUNCEMENTS AND NOTICES RE-  
23 QUIRED.—From January 1, 2008, through De-  
24 cember 31, 2008—

1           “(i) each television broadcaster shall  
2           air, at a minimum, two 60-second public  
3           service announcements per day, one during  
4           the 8 to 9 a.m. hour and one during the  
5           8 to 9 p.m. hour; and

6           “(ii) each multichannel video program  
7           distributor (as such term is defined in sec-  
8           tion 602 of this Act) shall include a notice  
9           in any periodic bill.

10           “(B) CONTENTS OF ANNOUNCEMENTS AND  
11           NOTICES.—The announcements and notices re-  
12           quired by subparagraphs (A)(i) and (A)(ii), re-  
13           spectively, shall state, at a minimum, that:  
14           ‘After December 31, 2008, television broad-  
15           casters will broadcast only in digital format.  
16           You will then no longer be able to receive  
17           broadcast programming on analog-only tele-  
18           visions unless those televisions are connected to  
19           a digital-to-analog converter box or a cable or  
20           satellite service. The device, if any, that a cable  
21           or satellite subscriber will need to connect to an  
22           analog television will depend on the cable or  
23           satellite service provider. Analog-only televisions  
24           should continue to work as before, however,  
25           with devices such as VCRs, digital video record-

1           ers, DVD players, and video game systems. You  
2           may be eligible for up to two coupons toward  
3           the purchase of up to two converter-boxes. For  
4           more information, call the Federal Communica-  
5           tions Commission at 1-888-225-5322 (TTY:  
6           1-888-835-5322) or visit the Commission's  
7           website at: [www.fcc.gov](http://www.fcc.gov).'.

8           “(6) REPORT REQUIRED.—Beginning January  
9           31, 2006, and ending July 31, 2008, the Commis-  
10          sion and the National Telecommunications and In-  
11          formation Administration, either jointly or sepa-  
12          rately, shall submit reports every six months to the  
13          Committee on Energy and Commerce of the House  
14          of Representatives and the Committee on Commerce,  
15          Science, and Transportation of the Senate, on the  
16          Commission's and such Administration's consumer  
17          education efforts, as well as the consumer education  
18          efforts of broadcasters, cable and satellite operators,  
19          consumer electronics manufacturers, retailers, and  
20          consumer groups. The Commission and such Admin-  
21          istration may solicit public comment in preparing  
22          their reports.”.

23          (c) PRESERVING AND EXPEDITING TUNER MAN-  
24          DATES.—The Federal Communications Commission—

1           (1) shall, within 30 days after the date of en-  
2           actment of this Act revise the digital television re-  
3           ception capability implementation schedule under  
4           section 15.117(i) of its regulations (47 CFR  
5           15.117(i)) to require, in the case of television recep-  
6           tion devices that have, or are sold in a bundle with,  
7           display screens sized 13 to 24 inches, inclusive, that  
8           100 percent of all such units must include digital  
9           television tuners effective March 1, 2007; and

10           (2) shall not make any other changes that ex-  
11           tend or otherwise delay the digital television recep-  
12           tion capability implementation schedule for television  
13           reception devices that have, or are sold in a bundle  
14           with, display screens.

15 **SEC. 3410. ADDITIONAL PROVISIONS.**

16           (a) **DIGITAL-TO-ANALOG CONVERSION.**—Section  
17 614(b) of the Communications Act of 1934 (47 U.S.C.  
18 534(b)) is amended by adding at the end the following  
19 new paragraphs:

20           “(11) **CARRIAGE OF DIGITAL FORMATS.**—

21           “(A) **PRIMARY VIDEO STREAM.**—With re-  
22           spect to any television station that is transmit-  
23           ting broadcast programming exclusively in the  
24           digital television service in a local market, a  
25           cable operator of a cable system in that market

1 shall carry the station’s primary video stream  
2 and program-related material in the digital for-  
3 mat transmitted by that station, without mate-  
4 rial degradation, if the licensee for that sta-  
5 tion—

6 “(i) relies on this section or section  
7 615 to obtain carriage of the primary video  
8 stream and program-related material on  
9 that cable system in that market; and

10 “(ii) permits the cable system to carry  
11 without compensation any other program-  
12 ming broadcast by that station that is car-  
13 ried on that system.

14 “(B) MULTIPLE FORMATS PERMITTED.—A  
15 cable operator of a cable system may offer the  
16 primary video stream and program-related ma-  
17 terial of a local television station described in  
18 subparagraph (A) in any analog or digital for-  
19 mat or formats, whether or not doing so re-  
20 quires conversion from the format transmitted  
21 by the local television station, so long as—

22 “(i) the cable operator offers the pri-  
23 mary video stream and program-related  
24 material in the converted analog or digital

1 format or formats without material deg-  
2 radation; and

3 “(ii) also offers the primary video  
4 stream and program-related material in  
5 the manner or manners required by this  
6 paragraph.

7 “(C) TRANSITIONAL CONVERSIONS.—Not-  
8 withstanding the requirement in subparagraph  
9 (A) to carry the primary video stream and pro-  
10 gram-related material in the digital format  
11 transmitted by the local television station, but  
12 subject to the prohibition on material degrada-  
13 tion, until January 1, 2014—

14 “(i) a cable operator—

15 “(I) shall offer the primary video  
16 stream and program-related material  
17 in the format or formats necessary for  
18 such stream and material to be  
19 viewable on analog and digital tele-  
20 visions; and

21 “(II) may convert the primary  
22 video stream and program-related ma-  
23 terial to standard-definition digital  
24 format in lieu of offering it in the dig-

1           ital format transmitted by the local  
2           television station;

3           “(ii) notwithstanding clause (i), a  
4           cable operator of a cable system with an  
5           activated capacity of 550 megahertz or  
6           less—

7                       “(I) shall offer the primary video  
8                       stream and program-related material  
9                       of the local television station described  
10                      in subparagraph (A), converted to an  
11                      analog format; and

12                     “(II) may, but shall not be re-  
13                     quired to, offer the primary video  
14                     stream and program-related material  
15                     in any digital format or formats.

16                     “(D) LOCATION AND METHOD OF CONVER-  
17                     SION.—

18                     “(i) A cable operator of a cable sys-  
19                     tem may perform any conversion permitted  
20                     or required by this paragraph at any loca-  
21                     tion, from the cable head-end to the cus-  
22                     tomer premises, inclusive.

23                     “(ii) Notwithstanding any other provi-  
24                     sion of this Act other than the prohibition  
25                     on material degradation, a cable operator



1                   “(I) the primary video stream  
2                   and program-related material of any  
3                   television broadcast station that is  
4                   provided by the cable operator to any  
5                   subscriber in an analog format, and

6                   “(II) the primary video stream  
7                   and program-related material—

8                   “(aa) of any television  
9                   broadcast station that is trans-  
10                  mitting exclusively in digital for-  
11                  mat, and

12                  “(bb) that is provided by the  
13                  cable operator to any subscriber  
14                  in a digital format,

15                  but excluding a signal that is secondarily  
16                  transmitted by a satellite carrier beyond  
17                  the local service area of such station.”.

18                  (c) COMPARABLE TREATMENT OF SATELLITE CAR-  
19                  RIERS.—Section 338 of the Communications Act of 1934  
20                  (47 U.S.C. 338) is amended—

21                  (1) by adding at the end the following new sub-  
22                  section:

23                  “(l) SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-  
24                  ITAL TRANSITION.—

1           “(1) CARRIAGE OF DIGITAL FORMATS.—With  
2           respect to any television station that requests car-  
3           riage under this section and that is transmitting  
4           broadcast programming exclusively in the digital tel-  
5           evision service in a local market in the contiguous  
6           United States (hereafter in this paragraph referred  
7           to as an eligible requesting station), a satellite car-  
8           rier carrying the digital signal of any other local tel-  
9           evision station in that local market shall carry the  
10          eligible requesting station’s primary video stream  
11          and program-related material, without material deg-  
12          radation, if the licensee for that eligible requesting  
13          station—

14                 “(A) relies on this section to obtain car-  
15                 riage of the primary video stream and program-  
16                 related material by that satellite carrier in that  
17                 market; and

18                 “(B) permits the satellite carrier to carry  
19                 without compensation any other programming  
20                 broadcast by that local station that is carried  
21                 on that system.

22           “(2) FORMATTING OF PRIMARY VIDEO  
23           STREAM.—A satellite carrier must offer the primary  
24           video stream and program-related material of an eli-  
25           gible requesting station in the digital format trans-

1       mitted by the station if the satellite carrier carries  
2       the primary video stream of any other local tele-  
3       vision station in that local market in the same dig-  
4       ital format.

5           “(3) MULTIPLE FORMATS PERMITTED.—A sat-  
6       ellite carrier may offer the primary video stream and  
7       program-related material of an eligible requesting  
8       station in any analog or digital format or formats,  
9       whether or not doing so requires conversion from the  
10      format transmitted by that eligible requesting sta-  
11      tion, so long as—

12           “(A) the satellite carrier offers the primary  
13      video stream and program-related material in  
14      the converted analog or digital format or for-  
15      mats without material degradation; and

16           “(B) also offers the primary video stream  
17      and program-related material in the manner or  
18      manners required by this subsection.

19           “(4) TRANSITIONAL CONVERSIONS.—Notwith-  
20      standing any requirement in paragraphs (1) and (2)  
21      to carry the primary video stream and program-re-  
22      lated material in the digital format transmitted by  
23      the local television station, but subject to the prohi-  
24      bition on material degradation, until January 1,  
25      2014, a satellite carrier—

1           “(A) shall offer the primary video stream  
2           and program-related material of any local tele-  
3           vision broadcast station required to be carried  
4           under paragraph (1) in the format necessary  
5           for such stream to be viewable on analog and  
6           digital televisions; and

7           “(B) may convert the primary video  
8           stream and program-related material to stand-  
9           ard-definition format in lieu of offering it in the  
10          digital format transmitted by the local television  
11          station.

12          “(5) LOCATION AND METHOD OF CONVER-  
13          SION.—A satellite carrier may perform any conver-  
14          sion permitted or required by this subsection at any  
15          location, from the local receive facility to the cus-  
16          tomer premises, inclusive.

17          “(6) CONVERSIONS NOT TREATED AS DEGRADA-  
18          TION.—Any conversion permitted or required by this  
19          subsection shall not, by itself, be treated as a mate-  
20          rial degradation.

21          “(7) CARRIAGE OF PROGRAM-RELATED MATE-  
22          RIAL.—The obligation to carry program-related ma-  
23          terial under this subsection is effective only to the  
24          extent technically feasible.

1           “(8) DEFINITION OF STANDARD-DEFINITION  
2           FORMAT.—For purposes of this subsection, a stream  
3           shall be in standard definition digital format if such  
4           stream meets the criteria for such format as speci-  
5           fied in the standard recognized by the Commission  
6           in section 73.682 of its rules (47 CFR 73.682) or  
7           a successor regulation.”;

8           (2) in subsection (b)(1), by striking “subsection  
9           (a)” and inserting “subsection (a) or (l)”;

10           (3) in subsection (c)(1), by striking “subsection  
11           (a)(1)” and inserting “subsections (a)(1) and (l)”;  
12           and

13           (4) in subsection (c)(2), by striking “subsection  
14           (a)” and inserting “subsections (a) and (l)”.

15           (d) DEADLINE.—The Federal Communications Com-  
16           mission shall revise its regulations to implement the  
17           amendments made by this section within one year after  
18           the date of enactment of this Act.

19           **SEC. 3411. DEPLOYMENT OF BROADBAND WIRELESS TECH-**  
20           **NOLOGIES.**

21           Not later than 45 days after the effective date of this  
22           Act, the Commission shall initiate a rulemaking to assess  
23           the necessity of rechannelizing the spectrum located be-  
24           tween 767–773 megahertz and 797–803 megahertz to ac-

1 commodate broadband applications. Such rulemaking shall  
2 be completed within 180 days.

3 **SEC. 3412. SENSE OF CONGRESS.**

4 (a) FINDINGS.—The Congress finds the following:

5 (1) The wireless communications industry in  
6 the United States is becoming increasingly con-  
7 centrated: there are currently no ownership limita-  
8 tions on wireless companies, and the five largest  
9 wireless carriers in the United States control nearly  
10 90 percent of United States wireless subscribership.

11 (2) Over 90 percent of households receive their  
12 broadband services through either cable or digital  
13 subscriber line (DSL) service, and most cable and  
14 DSL providers are heavily concentrated within their  
15 geographic markets.

16 (3) Under the Omnibus Budget and Reconcili-  
17 ation Act of 1993, Congress tasked the Federal  
18 Communications Commission to promote economic  
19 opportunity by disseminating wireless communica-  
20 tions licenses among a wide variety of applicants, in-  
21 cluding small businesses and rural telephone compa-  
22 nies.

23 (4) Upcoming auctions for the returned analog  
24 broadcast spectrum in the 700 megahertz band that  
25 will be cleared following the transition from analog

1 to digital broadcast television and Advanced Wireless  
2 Services (AWS) in the 1710–1755 megahertz and  
3 2110–2155 megahertz bands will likely be the last  
4 reallocation opportunities for commercial wireless  
5 communications services and wireless broadband  
6 services in the foreseeable future.

7 (5) In the near term, wireless broadband pre-  
8 sents the most promising opportunity to provide a  
9 third option (other than cable modem or DSL serv-  
10 ice) for broadband Internet access for most con-  
11 sumers, and the spectrum in the 700 megahertz  
12 band is considered “beachfront” property by tele-  
13 communications carriers because wireless signals at  
14 this frequency range pass easily through buildings,  
15 trees, and other interference.

16 (6) The 700 megahertz band offers a historic  
17 opportunity to provide the equivalent of a “third  
18 wire” into the home – an alternative to telephone or  
19 cable broadband access that will create new competi-  
20 tion and incentives for new entrants, innovation, and  
21 broader service offerings.

22 (b) SENSE OF THE CONGRESS.—It is the sense of  
23 the Congress that the Federal Communications Commis-  
24 sion should disseminate wireless communications licenses  
25 consistent with the findings in subsection (a) and do so

1 utilizing its existing authority under section 309(j) of the  
2 Communications Act of 1934, which requires the Commis-  
3 sion to promote the following objectives:

4 (1) the development and rapid deployment of  
5 new technologies, products, and services for the ben-  
6 efit of the public, including those residing in rural  
7 areas, without administrative or judicial delays;

8 (2) promoting economic opportunity and com-  
9 petition and ensuring that new and innovative tech-  
10 nologies are readily accessible to the American peo-  
11 ple by avoiding excessive concentration of licenses  
12 and by disseminating licenses among a wide variety  
13 of applicants, including small businesses and rural  
14 telephone companies;

15 (3) recovery for the public of a portion of the  
16 value of the public spectrum resource made available  
17 for commercial use and avoidance of unjust enrich-  
18 ment through the methods employed to award uses  
19 of that resource; and

20 (4) efficient and intensive use of the electro-  
21 magnetic spectrum.

22 **SEC. 3413. BAND PLAN REVISION REQUIRED.**

23 (a) **PROCEEDING REQUIRED.**—The Federal Commu-  
24 nications Commission shall commence a proceeding no  
25 later than June 1, 2006, to reevaluate the band plan for

1 the auction of the unauctioned portions of the lower 700  
 2 megahertz band (currently designated as Blocks A, B, and  
 3 E).

4 (b) RECONFIGURATION REQUIRED.—The Federal  
 5 Communications Commission shall reconfigure the band  
 6 plan to license spectrum for Block B of such portion ac-  
 7 cording to Cellular Market Areas (i.e., Metropolitan Sta-  
 8 tistical Areas (“MSAs”) and Rural Service Areas  
 9 (“RSAs”)) to facilitate the offering of competitive wireless  
 10 services by regional and smaller wireless carriers.

11 **TITLE IV—COMMITTEE ON**  
 12 **FINANCIAL SERVICES**

13 **SECTION 4000. TABLE OF CONTENTS.**

14 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  
5 Insurance 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 LIABIL-  
12 ITIES.—All assets and liabilities of the Bank Insur-  
13 ance Fund and the Savings Association Insurance  
14 Fund shall be transferred to the Deposit Insurance  
15 Fund.

16          (3) NO SEPARATE EXISTENCE.—The separate  
17 existence of the Bank Insurance Fund and the Sav-  
18 ings Association Insurance Fund shall cease on the  
19 effective date of the merger thereof under this sec-  
20 tion.

21       (b) REPEAL OF OUTDATED MERGER PROVISION.—  
22 Section 2704 of the Deposit Insurance Funds Act of 1996  
23 (12 U.S.C. 1821 note) is repealed.

1           (c) **EFFECTIVE DATE.**—This section shall take effect  
2 on the first day of the first calendar quarter that begins  
3 after the end of the 90-day period beginning on the date  
4 of the enactment of this Act.

5 **SEC. 4003. INCREASE IN DEPOSIT INSURANCE COVERAGE.**

6           (a) **IN GENERAL.**—Section 11(a)(1) of the Federal  
7 Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amend-  
8 ed—

9                   (1) by striking subparagraph (B) and inserting  
10 the following new subparagraph:

11                           “(B) **NET AMOUNT OF INSURED DE-**  
12                           **POSIT.**—The net amount due to any depositor  
13                           at an insured depository institution shall not  
14                           exceed the standard maximum deposit insur-  
15                           ance amount as determined in accordance with  
16                           subparagraphs (C), (D), (E) and (F) and para-  
17                           graph (3).”;

18                   (2) by adding at the end the following new sub-  
19 paragraphs:

20                           “(E) **STANDARD MAXIMUM DEPOSIT IN-**  
21                           **SURANCE AMOUNT DEFINED.**—For purposes of  
22                           this Act, the term ‘standard maximum deposit  
23                           insurance amount’ means—

24                                   “(i) until the effective date of final  
25                                   regulations prescribed pursuant to section

1 4009(a)(2) of the Federal Deposit Insur-  
2 ance Reform Act of 2005, \$100,000; and

3 “(ii) on and after such effective date,  
4 \$130,000, adjusted as provided under sub-  
5 paragraph (F).

6 “(F) INFLATION ADJUSTMENT.—

7 “(i) IN GENERAL.—By April 1 of  
8 2007, and the 1st day of each subsequent  
9 5-year period, the Board of Directors and  
10 the National Credit Union Administration  
11 Board shall jointly prescribe the amount  
12 by which the standard maximum deposit  
13 insurance amount and the standard max-  
14 imum share insurance amount (as defined  
15 in section 207(k) of the Federal Credit  
16 Union Act) applicable to any depositor at  
17 an insured depository institution shall be  
18 increased by calculating the product of—

19 “(I) \$130,000; and

20 “(II) the ratio of the value of the  
21 Personal Consumption Expenditures  
22 Chain-Type Index (or any successor  
23 index thereto), published by the De-  
24 partment of Commerce, as of Decem-  
25 ber 31 of the year preceding the year

1 in which the adjustment is calculated  
2 under this clause, to the value of such  
3 index as of the date this subpara-  
4 graph takes effect.

5 “(ii) ROUNDING.—If the amount de-  
6 termined under clause (ii) for any period is  
7 not a multiple of \$10,000, the amount so  
8 determined shall be rounded to the nearest  
9 \$10,000.

10 “(iii) PUBLICATION AND REPORT TO  
11 THE CONGRESS.—Not later than April 5 of  
12 any calendar year in which an adjustment  
13 is required to be calculated under clause (i)  
14 to the standard maximum deposit insur-  
15 ance amount and the standard maximum  
16 share insurance amount under such clause,  
17 the Board of Directors and the National  
18 Credit Union Administration Board  
19 shall—

20 “(I) publish in the Federal Reg-  
21 ister the standard maximum deposit  
22 insurance amount, the standard max-  
23 imum share insurance amount, and  
24 the amount of coverage under para-  
25 graph (3)(A) and section 207(k)(3) of

1 the Federal Credit Union Act, as so  
2 calculated; and

3 “(II) jointly submit a report to  
4 the Congress containing the amounts  
5 described in subclause (I).

6 “(iv) 6-MONTH IMPLEMENTATION PE-  
7 RIOD.—Unless an Act of Congress enacted  
8 before July 1 of the calendar year in which  
9 an adjustment is required to be calculated  
10 under clause (i) provides otherwise, the in-  
11 crease in the standard maximum deposit  
12 insurance amount and the standard max-  
13 imum share insurance amount shall take  
14 effect on January 1 of the year imme-  
15 diately succeeding such calendar year.”.

16 (b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT  
17 PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal De-  
18 posit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amend-  
19 ed to read as follows:

20 “(D) COVERAGE FOR CERTAIN EMPLOYEE  
21 BENEFIT PLAN DEPOSITS.—

22 “(i) PASS-THROUGH INSURANCE.—  
23 The Corporation shall provide pass-  
24 through deposit insurance for the deposits  
25 of any employee benefit plan.

1           “(ii) PROHIBITION ON ACCEPTANCE  
2           OF BENEFIT PLAN DEPOSITS.—An insured  
3           depository institution that is not well cap-  
4           italized or adequately capitalized may not  
5           accept employee benefit plan deposits.

6           “(iii) DEFINITIONS.—For purposes of  
7           this subparagraph, the following definitions  
8           shall apply:

9           “(I) CAPITAL STANDARDS.—The  
10          terms ‘well capitalized’ and ‘ade-  
11          quately capitalized’ have the same  
12          meanings as in section 38.

13          “(II) EMPLOYEE BENEFIT  
14          PLAN.—The term ‘employee benefit  
15          plan’ has the same meaning as in  
16          paragraph (8)(B)(ii), and includes any  
17          eligible deferred compensation plan  
18          described in section 457 of the Inter-  
19          nal Revenue Code of 1986.

20          “(III) PASS-THROUGH DEPOSIT  
21          INSURANCE.—The term ‘pass-through  
22          deposit insurance’ means, with respect  
23          to an employee benefit plan, deposit  
24          insurance coverage provided on a pro  
25          rata basis to the participants in the

1                                    plan, in accordance with the interest  
2                                    of each participant.”.

3            (c) DOUBLING OF DEPOSIT INSURANCE FOR CER-  
4 TAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of  
5 the Federal Deposit Insurance Act (12 U.S.C.  
6 1821(a)(3)(A)) is amended by striking “\$100,000” and  
7 inserting “2 times the standard maximum deposit insur-  
8 ance amount (as determined under paragraph (1))”.

9            (d) INCREASED INSURANCE COVERAGE FOR MUNIC-  
10 IPAL DEPOSITS.—Section 11(a)(2) of the Federal Deposit  
11 Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

12                                    (1) in subparagraph (A)—

13                                    (A) by moving the margins of clauses (i)  
14 through (v) 4 ems to the right;

15                                    (B) by striking, in the matter following  
16 clause (v), “such depositor shall” and all that  
17 follows through the period; and

18                                    (C) by striking the semicolon at the end of  
19 clause (v) and inserting a period;

20                                    (2) by striking “(2)(A) Notwithstanding” and  
21 all that follows through “a depositor who is—” and  
22 inserting the following:

23                                    “(2) MUNICIPAL DEPOSITORS.—

24                                    “(A) IN GENERAL.—Notwithstanding any  
25 limitation in this Act or in any other provision

1 of law relating to the amount of deposit insur-  
2 ance available to any 1 depositor—

3 “(i) a municipal depositor shall, for  
4 the purpose of determining the amount of  
5 insured deposits under this subsection, be  
6 deemed to be a depositor separate and dis-  
7 tinct from any other officer, employee, or  
8 agent of the United States or any public  
9 unit referred to in subparagraph (E); and

10 “(ii) except as provided in subpara-  
11 graph (B), the deposits of a municipal de-  
12 positor shall be insured in an amount  
13 equal to the standard maximum deposit in-  
14 surance amount (as determined under  
15 paragraph (1)).

16 “(B) IN-STATE MUNICIPAL DEPOSITORS.—

17 In the case of the deposits of an in-State mu-  
18 nicipal depositor described in clause (ii), (iii),  
19 (iv), or (v) of subparagraph (E) at an insured  
20 depository institution, such deposits shall be in-  
21 sured in an amount not to exceed the lesser  
22 of—

23 “(i) \$2,000,000; or

24 “(ii) the sum of the standard max-  
25 imum deposit insurance amount and 80

1           percent of the amount of any deposits in  
2           excess of the standard maximum deposit  
3           insurance amount.

4           “(C) MUNICIPAL DEPOSIT PARITY.—No  
5           State may deny to insured depository institu-  
6           tions within its jurisdiction the authority to ac-  
7           cept deposits insured under this paragraph, or  
8           prohibit the making of such deposits in such in-  
9           stitutions by any in-State municipal depositor.

10           “(D) IN-STATE MUNICIPAL DEPOSITOR DE-  
11           FINED.—For purposes of this paragraph, the  
12           term ‘in-State municipal depositor’ means a  
13           municipal depositor that is located in the same  
14           State as the office or branch of the insured de-  
15           pository institution at which the deposits of  
16           that depositor are held.

17           “(E) MUNICIPAL DEPOSITOR.—In this  
18           paragraph, the term ‘municipal depositor’  
19           means a depositor that is—”;

20           (3) by striking “(B) The” and inserting the fol-  
21           lowing:

22           “(F) AUTHORITY TO LIMIT DEPOSITS.—  
23           The”; and

1           (4) by striking “depositor referred to in sub-  
2           paragraph (A) of this paragraph” each place such  
3           term appears and inserting “municipal depositor”.

4           (e) TECHNICAL AND CONFORMING AMENDMENT RE-  
5           LATING TO INSURANCE OF TRUST FUNDS.—Paragraphs  
6           (1) and (3) of section 7(i) of the Federal Deposit Insur-  
7           ance Act (12 U.S.C. 1817(i)) are each amended by strik-  
8           ing “\$100,000” and inserting “the standard maximum de-  
9           posit insurance amount (as determined under section  
10          11(a)(1))”.

11          (f) OTHER TECHNICAL AND CONFORMING AMEND-  
12          MENTS.—

13           (1) Section 11(m)(6) of the Federal Deposit In-  
14           surance Act (12 U.S.C. 1821(m)(6)) is amended by  
15           striking “\$100,000” and inserting “an amount equal  
16           to the standard maximum deposit insurance  
17           amount”.

18           (2) Subsection (a) of section 18 of the Federal  
19           Deposit Insurance Act (12 U.S.C. 1828(a)) is  
20           amended to read as follows:

21          “(a) INSURANCE LOGO.—

22           “(1) INSURED DEPOSITORY INSTITUTIONS.—

23           “(A) IN GENERAL.—Each insured deposi-  
24           tory institution shall display at each place of  
25           business maintained by that institution a sign

1 or signs relating to the insurance of the depos-  
2 its of the institution, in accordance with regula-  
3 tions to be prescribed by the Corporation.

4 “(B) STATEMENT TO BE INCLUDED.—  
5 Each sign required under subparagraph (A)  
6 shall include a statement that insured deposits  
7 are backed by the full faith and credit of the  
8 United States Government.

9 “(2) REGULATIONS.—The Corporation shall  
10 prescribe regulations to carry out this subsection, in-  
11 cluding regulations governing the substance of signs  
12 required by paragraph (1) and the manner of dis-  
13 play or use of such signs.

14 “(3) PENALTIES.—For each day that an in-  
15 sured depository institution continues to violate this  
16 subsection or any regulation issued under this sub-  
17 section, it shall be subject to a penalty of not more  
18 than \$100, which the Corporation may recover for  
19 its use.”.

20 (3) Section 43(d) of the Federal Deposit Insur-  
21 ance Act (12 U.S.C. 1831t(d)) is amended by strik-  
22 ing “\$100,000” and inserting “an amount equal to  
23 the standard maximum deposit insurance amount”.

24 (4) Section 6 of the International Banking Act  
25 of 1978 (12 U.S.C. 3104) is amended—

1 (A) by striking “\$100,000” each place  
2 such term appears and inserting “an amount  
3 equal to the standard maximum deposit insur-  
4 ance amount”; and

5 (B) by adding at the end the following new  
6 subsection:

7 “(e) STANDARD MAXIMUM DEPOSIT INSURANCE  
8 AMOUNT DEFINED.—For purposes of this section, the  
9 term ‘standard maximum deposit insurance amount’  
10 means the amount of the maximum amount of deposit in-  
11 surance as determined under section 11(a)(1) of the Fed-  
12 eral Deposit Insurance Act.”.

13 (g) CONFORMING CHANGE TO CREDIT UNION SHARE  
14 INSURANCE FUND.—

15 (1) IN GENERAL.—Section 207(k) of the Fed-  
16 eral Credit Union Act (12 U.S.C. 1787(k)) is  
17 amended—

18 (A) by striking “(k)(1)” and all that fol-  
19 lows through the end of paragraph (1) and in-  
20 serting the following:

21 “(k) INSURED AMOUNTS PAYABLE.—

22 “(1) NET INSURED AMOUNT.—

23 “(A) IN GENERAL.—Subject to the provi-  
24 sions of paragraph (2), the net amount of share  
25 insurance payable to any member at an insured

1 credit union shall not exceed the total amount  
2 of the shares or deposits in the name of the  
3 member (after deducting offsets), less any part  
4 thereof which is in excess of the standard maximum share insurance amount, as determined  
5 in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions  
6 taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal  
7 Deposit Insurance Act.  
8  
9  
10

11 “(B) AGGREGATION.—Determination of  
12 the net amount of share insurance under subparagraph (A), shall be in accordance with such  
13 regulations as the Board may prescribe, and, in determining the amount payable to any member,  
14 there shall be added together all accounts in the credit union maintained by that member  
15 for that member’s own benefit, either in the member’s own name or in the names of others.  
16  
17  
18  
19

20 “(C) AUTHORITY TO DEFINE THE EXTENT  
21 OF COVERAGE.—The Board may define, with  
22 such classifications and exceptions as it may prescribe, the extent of the share insurance coverage  
23 provided for member accounts, including  
24

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  
7 right;

8 (II) in the matter following  
9 clause (v), by striking “his account”  
10 and all that follows through the pe-  
11 riod; and

12 (III) by striking the semicolon at  
13 the end of clause (v) and inserting a  
14 period;

15 (ii) by striking “(2)(A) Notwith-  
16 standing” and all that follows through “a  
17 depositor or member who is—” and insert-  
18 ing the following:

19 “(2) MUNICIPAL DEPOSITORS OR MEMBERS.—

20 “(A) IN GENERAL.—Notwithstanding any  
21 limitation in this Act or in any other provision  
22 of law relating to the amount of insurance  
23 available to any 1 depositor or member, depos-  
24 its or shares of a municipal depositor or mem-  
25 ber shall be insured in an amount equal to the

1 standard maximum share insurance amount (as  
2 determined under paragraph (5)), except as  
3 provided in subparagraph (B).

4 “(B) IN-STATE MUNICIPAL DEPOSITORS.—

5 In the case of the deposits of an in-State mu-  
6 nicipal depositor described in clause (ii), (iii),  
7 (iv), or (v) of subparagraph (E) at an insured  
8 credit union, such deposits shall be insured in  
9 an amount equal to the lesser of—

10 “(i) \$2,000,000; or

11 “(ii) the sum of the standard max-  
12 imum deposit insurance amount and 80  
13 percent of the amount of any deposits in  
14 excess of the standard maximum deposit  
15 insurance amount.

16 “(C) RULE OF CONSTRUCTION.—No provi-

17 sion of this paragraph shall be construed as au-  
18 thorizing an insured credit union to accept the  
19 deposits of a municipal depositor in an amount  
20 greater than such credit union is authorized to  
21 accept under any other provision of Federal or  
22 State law.

23 “(D) IN-STATE MUNICIPAL DEPOSITOR DE-

24 FINED.—For purposes of this paragraph, the  
25 term ‘in-State municipal depositor’ means a

1           municipal depositor that is located in the same  
2           State as the office or branch of the insured  
3           credit union at which the deposits of that de-  
4           positor are held.

5           “(E) MUNICIPAL DEPOSITOR.—In this  
6           paragraph, the term ‘municipal depositor’  
7           means a depositor that is—”;

8                   (iii) by striking “(B) The” and insert-  
9                   ing the following:

10           “(F) AUTHORITY TO LIMIT DEPOSITS.—  
11           The”;

12                   (iv) by striking “depositor or member  
13                   referred to in subparagraph (A)” and in-  
14                   serting “municipal depositor or member”;  
15                   and

16           (C) by adding at the end the following new  
17           paragraphs:

18           “(4) COVERAGE FOR CERTAIN EMPLOYEE BEN-  
19           EFIT PLAN DEPOSITS.—

20                   “(A) PASS-THROUGH INSURANCE.—The  
21                   Administration shall provide pass-through share  
22                   insurance for the deposits or shares of any em-  
23                   ployee benefit plan.

24                   “(B) PROHIBITION ON ACCEPTANCE OF  
25                   DEPOSITS.—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  
6 terms ‘well capitalized’ and ‘adequately  
7 capitalized’ have the same meanings as in  
8 section 216(c).

9 “(ii) EMPLOYEE BENEFIT PLAN.—  
10 The 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  
14 Act 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 in-  
24 surance’ means, with respect to an em-  
25 ployee benefit plan, insurance coverage

1 provided on a pro rata basis to the partici-  
2 pants in the plan, in accordance with the  
3 interest of 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 au-  
9 thorized to accept under any other provision of  
10 Federal 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)  
25 of the Federal Credit Union Act (12 U.S.C.

1 1787(k)(3)) is amended by striking “\$100,000” and  
2 inserting “2 times the standard maximum share in-  
3 surance amount (as determined under paragraph  
4 (1))”.

5 (h) EFFECTIVE DATE.—This section and the amend-  
6 ments made by this section shall take effect on the date  
7 the final regulations required under section 4009(a)(2)  
8 take effect.

9 **SEC. 4004. SETTING ASSESSMENTS AND REPEAL OF SPE-**  
10 **CIAL RULES RELATING TO MINIMUM ASSESS-**  
11 **MENTS AND FREE DEPOSIT INSURANCE.**

12 (a) SETTING ASSESSMENTS.—Section 7(b)(2) of the  
13 Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is  
14 amended—

15 (1) by striking subparagraphs (A) and (B) and  
16 inserting the following new subparagraphs:

17 “(A) IN GENERAL.—The Board of Direc-  
18 tors shall set assessments for insured depository  
19 institutions in such amounts as the Board of  
20 Directors may determine to be necessary or ap-  
21 propriate, subject to subparagraph (D).

22 “(B) FACTORS TO BE CONSIDERED.—In  
23 setting assessments under subparagraph (A),  
24 the Board of Directors shall consider the fol-  
25 lowing factors:

1           “(i) The estimated operating expenses  
2 of the Deposit Insurance Fund.

3           “(ii) The estimated case resolution ex-  
4 penses and income of the Deposit Insur-  
5 ance 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 sys-  
12 tem, including the requirement under such  
13 paragraph to maintain a risk-based sys-  
14 tem.

15           “(v) Any other factors the Board of  
16 Directors may determine to be appro-  
17 priate.”; and

18           (2) by inserting after subparagraph (C) the fol-  
19 lowing new subparagraph:

20           “(D) BASE RATE FOR ASSESSMENTS.—

21           “(i) IN GENERAL.—In setting assess-  
22 ment rates pursuant to subparagraph (A),  
23 the Board of Directors shall establish a  
24 base rate of not more than 1 basis point  
25 (exclusive of any credit or dividend) for

1           those insured depository institutions in the  
2           lowest-risk category under the risk-based  
3           assessment system established pursuant to  
4           paragraph (1). No insured depository insti-  
5           tution shall be barred from the lowest-risk  
6           category solely because of size.

7                   “(ii) SUSPENSION.—Clause (i) shall  
8           not apply during any period in which the  
9           reserve ratio of the Deposit Insurance  
10          Fund is less than the amount which is  
11          equal to 1.15 percent of the aggregate esti-  
12          mated insured deposits.”.

13          (b) ASSESSMENT RECORDKEEPING PERIOD SHORT-  
14          ENED.—Paragraph (5) of section 7(b) of the Federal De-  
15          posit Insurance Act (12 U.S.C. 1817(b)) is amended to  
16          read as follows:

17                   “(5) DEPOSITORY INSTITUTION REQUIRED TO  
18          MAINTAIN ASSESSMENT-RELATED RECORDS.—Each  
19          insured depository institution shall maintain all  
20          records that the Corporation may require for  
21          verifying the correctness of any assessment on the  
22          insured depository institution under this subsection  
23          until the later of—

24                   “(A) the end of the 3-year period begin-  
25          ning on the due date of the assessment; or

1           “(B) in the case of a dispute between the  
2           insured depository institution and the Corpora-  
3           tion with respect to such assessment, the date  
4           of a 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 De-  
7           posit Insurance Act (12 U.S.C. 1828(h)) is amended to  
8           read as follows:

9           “(h) PENALTY FOR FAILURE TO TIMELY PAY AS-  
10          SESSMENTS.—

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  
14           penalty in an amount not more than 1 percent of  
15           the amount of the assessment due for each day that  
16           such 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  
20           due to a dispute between the insured depository  
21           institution and the Corporation over the  
22           amount of such assessment; and

23           “(B) the insured depository institution de-  
24           posits security satisfactory to the Corporation

1           for payment upon final determination of the  
2           issue.

3           “(3) SPECIAL RULE FOR SMALL ASSESSMENT  
4           AMOUNTS.—If the amount of the assessment which  
5           an insured depository institution fails or refuses to  
6           pay is less than \$10,000 at the time of such failure  
7           or refusal, the amount of any penalty to which such  
8           institution is subject under paragraph (1) shall not  
9           exceed \$100 for each day that such violation con-  
10          tinues.

11          “(4) AUTHORITY TO MODIFY OR REMIT PEN-  
12          ALTY.—The Corporation, in the sole discretion of  
13          the Corporation, may compromise, modify or remit  
14          any penalty which the Corporation may assess or  
15          has already assessed under paragraph (1) upon a  
16          finding that good cause prevented the timely pay-  
17          ment of an assessment.”.

18          (d) ASSESSMENTS FOR LIFELINE ACCOUNTS.—

19               (1) IN GENERAL.—Section 232 of the Federal  
20          Deposit Insurance Corporation Improvement Act of  
21          1991 (12 U.S.C. 1834) is amended by striking sub-  
22          section (c).

23               (2) CLARIFICATION OF RATE APPLICABLE TO  
24          DEPOSITS ATTRIBUTABLE TO LIFELINE AC-  
25          COUNTS.—Section 7(b)(2)(H) of the Federal Deposit

1 Insurance Act (12 U.S.C. 1817(b)(2)(H)) is amend-  
2 ed by striking “at a rate determined in accordance  
3 with such Act” and inserting “at ½ the assessment  
4 rate otherwise applicable for such insured depository  
5 institution”.

6 (3) REGULATIONS.—Section 232(a)(1) of the  
7 Federal Deposit Insurance Corporation Improvement  
8 Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by  
9 striking “Board of Governors of the Federal Reserve  
10 System, and the”.

11 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) Paragraph (3) of section 7(a) of the Fed-  
13 eral Deposit Insurance Act (12 U.S.C. 1817(a)(3))  
14 is amended by striking the 3d sentence and inserting  
15 the following: “Such reports of condition shall be the  
16 basis for the certified statements to be filed pursu-  
17 ant to subsection (c).”.

18 (2) Subparagraphs (B)(ii) and (C) of section  
19 7(b)(1) of the Federal Deposit Insurance Act (12  
20 U.S.C. 1817(b)(1)) are each amended by striking  
21 “semiannual” where such term appears in each such  
22 subparagraph.

23 (3) Section 7(b)(2) of the Federal Deposit In-  
24 surance Act (12 U.S.C. 1817(b)(2)) is amended—

1 (A) by striking subparagraphs (E), (F),  
2 and (G);

3 (B) in subparagraph (C), by striking  
4 “semiannual”; and

5 (C) by redesignating subparagraph (H) (as  
6 amended by subsection (e)(2) of this section) as  
7 subparagraph (E).

8 (4) Section 7(b) of the Federal Deposit Insur-  
9 ance Act (12 U.S.C. 1817(b)) is amended by strik-  
10 ing paragraph (4) and redesignating paragraphs (5)  
11 (as amended by subsection (b) of this section), (6),  
12 and (7) as paragraphs (4), (5), and (6) respectively.

13 (5) Section 7(c) of the Federal Deposit Insur-  
14 ance Act (12 U.S.C. 1817(c)) is amended—

15 (A) in paragraph (1)(A), by striking  
16 “semiannual”;

17 (B) in paragraph (2)(A), by striking  
18 “semiannual”; and

19 (C) in paragraph (3), by striking “semi-  
20 annual period” and inserting “initial assess-  
21 ment period”.

22 (6) Section 8(p) of the Federal Deposit Insur-  
23 ance Act (12 U.S.C. 1818(p)) is amended by strik-  
24 ing “semiannual”.

1           (7) Section 8(q) of the Federal Deposit Insur-  
2           ance Act (12 U.S.C. 1818(q)) is amended by strik-  
3           ing “semiannual period” and inserting “assessment  
4           period”.

5           (8) Section 13(c)(4)(G)(ii)(II) of the Federal  
6           Deposit Insurance Act (12 U.S.C.  
7           1823(c)(4)(G)(ii)(II)) is amended by striking “semi-  
8           annual period” and inserting “assessment period”.

9           (9) Section 232(a) of the Federal Deposit In-  
10          surance Corporation Improvement Act of 1991 (12  
11          U.S.C. 1834(a)) is amended—

12                   (A) in the matter preceding subparagraph  
13                   (A) of paragraph (2), by striking “the Board  
14                   and”;

15                   (B) in subparagraph (J) of paragraph (2),  
16                   by striking “the Board” and inserting “the  
17                   Corporation”;

18                   (C) by striking subparagraph (A) of para-  
19                   graph (3) and inserting the following new sub-  
20                   paragraph:

21                           “(A) CORPORATION.—The term ‘Corpora-  
22                           tion’ means the Federal Deposit Insurance Cor-  
23                           poration.”; and

1 (D) in subparagraph (C) of paragraph (3),  
2 by striking “Board” and inserting “Corpora-  
3 tion”.

4 (f) EFFECTIVE DATE.—This section and the amend-  
5 ments made by this section shall take effect on the date  
6 that the final regulations required under section  
7 4009(a)(5) take effect.

8 **SEC. 4005. REPLACEMENT OF FIXED DESIGNATED RESERVE**  
9 **RATIO WITH RESERVE RANGE.**

10 (a) IN GENERAL.—Section 7(b)(3) of the Federal  
11 Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended  
12 to read as follows:

13 “(3) DESIGNATED RESERVE RATIO.—

14 “(A) ESTABLISHMENT.—

15 “(i) IN GENERAL.—The Board of Di-  
16 rectors shall designate, by regulation after  
17 notice and opportunity for comment, the  
18 reserve ratio applicable with respect to the  
19 Deposit Insurance Fund.

20 “(ii) NOT LESS THAN ANNUAL REDE-  
21 TERMINATION.—A determination under  
22 clause (i) shall be made by the Board of  
23 Directors at least before the beginning of  
24 each calendar year, for such calendar year,

1                   and at such other times as the Board of  
2                   Directors may determine to be appropriate.

3                   “(B) RANGE.—The reserve ratio des-  
4                   ignated by the Board of Directors for any  
5                   year—

6                                 “(i) may not exceed 1.4 percent of es-  
7                                 timated insured deposits; and

8                                 “(ii) may not be less than 1.15 per-  
9                                 cent of estimated insured deposits.

10                   “(C) FACTORS.—In designating a reserve  
11                   ratio for any year, the Board of Directors  
12                   shall—

13                                 “(i) take into account the risk of  
14                                 losses to the Deposit Insurance Fund in  
15                                 such year and future years, including his-  
16                                 toric experience and potential and esti-  
17                                 mated losses from insured depository insti-  
18                                 tutions;

19                                 “(ii) take into account economic con-  
20                                 ditions generally affecting insured deposi-  
21                                 tory institutions so as to allow the des-  
22                                 ignated reserve ratio to increase during  
23                                 more favorable economic conditions and to  
24                                 decrease during less favorable economic  
25                                 conditions, notwithstanding the increased

1 risks of loss that may exist during such  
2 less favorable conditions, as determined to  
3 be appropriate by the Board of Directors;

4 “(iii) seek to prevent sharp swings in  
5 the assessment rates for insured depository  
6 institutions; and

7 “(iv) take into account such other fac-  
8 tors as the Board of Directors may deter-  
9 mine to be appropriate, consistent with the  
10 requirements of this subparagraph.

11 “(D) PUBLICATION OF PROPOSED CHANGE  
12 IN RATIO.—In soliciting comment on any pro-  
13 posed change in the designated reserve ratio in  
14 accordance with subparagraph (A), the Board  
15 of Directors shall include in the published pro-  
16 posal a thorough analysis of the data and pro-  
17 jections on which the proposal is based.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
19 Section 3(y) of the Federal Deposit Insurance Act (12  
20 U.S.C. 1813(y)) is amended—

21 (1) by striking “(y) The term” and inserting(y)  
22 Definitions Relating to Deposit Insurance Fund.—

23 “(1) DEPOSIT INSURANCE FUND.—The term”;  
24 and

1           (2) by inserting after paragraph (1) (as so des-  
2           ignated by paragraph (1) of this subsection) the fol-  
3           lowing new paragraph:

4           “(2) DESIGNATED RESERVE RATIO.—The term  
5           ‘designated reserve ratio’ means the reserve ratio  
6           designated by the Board of Directors in accordance  
7           with section 7(b)(3).”.

8           (c) EFFECTIVE DATE.—This section and the amend-  
9           ments made by this section shall take effect on the date  
10          that the final regulations required under section  
11          4009(a)(1) take effect.

12       **SEC. 4006. REQUIREMENTS APPLICABLE TO THE RISK-**  
13               **BASED ASSESSMENT SYSTEM.**

14          Section 7(b)(1) of the Federal Deposit Insurance Act  
15          (12 U.S.C. 1817(b)(1)) is amended by adding at the end  
16          the following new subparagraphs:

17               “(E) INFORMATION CONCERNING RISK OF  
18               LOSS AND ECONOMIC CONDITIONS.—

19                       “(i) SOURCES OF INFORMATION.—For  
20                       purposes of determining risk of losses at  
21                       insured depository institutions and eco-  
22                       nomic conditions generally affecting depos-  
23                       itory institutions, the Corporation shall col-  
24                       lect information, as appropriate, from all  
25                       sources the Board of Directors considers

1 appropriate, such as reports of condition,  
2 inspection reports, and other information  
3 from all Federal banking agencies, any in-  
4 formation available from State bank super-  
5 visors, State insurance and securities regu-  
6 lators, the Securities and Exchange Com-  
7 mission (including information described in  
8 section 35), the Secretary of the Treasury,  
9 the Commodity Futures Trading Commis-  
10 sion, the Farm Credit Administration, the  
11 Federal Trade Commission, any Federal  
12 reserve bank or Federal home loan bank,  
13 and other regulators of financial institu-  
14 tions, and any information available from  
15 credit rating entities, and other private  
16 economic or business analysts.

17 “(ii) CONSULTATION WITH FEDERAL  
18 BANKING AGENCIES.—

19 “(I) IN GENERAL.—Except as  
20 provided in subclause (II), in assess-  
21 ing the risk of loss to the Deposit In-  
22 surance Fund with respect to any in-  
23 sured depository institution, the Cor-  
24 poration shall consult with the appro-

1           prate Federal banking agency of such  
2           institution.

3                   “(II) TREATMENT ON AGGRE-  
4                   GATE BASIS.—In the case of insured  
5                   depository institutions that are well  
6                   capitalized (as defined in section 38)  
7                   and, in the most recent examination,  
8                   were found to be well managed, the  
9                   consultation under subclause (I) con-  
10                  cerning the assessment of the risk of  
11                  loss posed by such institutions may be  
12                  made on an aggregate basis.

13                   “(iii) RULE OF CONSTRUCTION.—No  
14                  provision of this paragraph shall be con-  
15                  strued as providing any new authority for  
16                  the Corporation to require submission of  
17                  information by insured depository institu-  
18                  tions to the Corporation.

19                   “(F) MODIFICATIONS TO THE RISK-BASED  
20                  ASSESSMENT SYSTEM ALLOWED ONLY AFTER  
21                  NOTICE AND COMMENT.—In revising or modi-  
22                  fying the risk-based assessment system at any  
23                  time after the date of the enactment of the  
24                  Federal Deposit Insurance Reform Act of 2005,  
25                  the Board of Directors may implement such re-

1           visions or modification in final form only after  
2           notice and opportunity for comment.”.

3 **SEC. 4007. REFUNDS, DIVIDENDS, AND CREDITS FROM DE-**  
4 **POSIT INSURANCE FUND.**

5           (a) IN GENERAL.—Subsection (e) of section 7 of the  
6 Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is  
7 amended to read as follows:

8           “(e) REFUNDS, DIVIDENDS, AND CREDITS.—

9                   “(1) REFUNDS OF OVERPAYMENTS.—In the  
10 case of any payment of an assessment by an insured  
11 depository institution in excess of the amount due to  
12 the Corporation, the Corporation may—

13                           “(A) refund the amount of the excess pay-  
14 ment to the insured depository institution; or

15                           “(B) credit such excess amount toward the  
16 payment of subsequent assessments until such  
17 credit is exhausted.

18                   “(2) DIVIDENDS FROM EXCESS AMOUNTS IN  
19 DEPOSIT INSURANCE FUND.—

20                           “(A) RESERVE RATIO IN EXCESS OF 1.4  
21 PERCENT OF ESTIMATED INSURED DEPOSITS.—

22 Whenever the reserve ratio of the Deposit In-  
23 surance Fund exceeds 1.4 percent of estimated  
24 insured deposits, the Corporation shall declare  
25 the amount in the Fund in excess of the

1 amount required to maintain the reserve ratio  
2 at 1.4 percent of estimated insured deposits, as  
3 dividends to be paid to insured depository insti-  
4 tutions.

5 “(B) RESERVE RATIO EQUAL TO OR IN EX-  
6 CESS OF 1.35 PERCENT OF ESTIMATED INSURED  
7 DEPOSITS AND NOT MORE THAN 1.4 PER-  
8 CENT.—Whenever the reserve ratio of the De-  
9 posit Insurance Fund equals or exceeds 1.35  
10 percent of estimated insured deposits and is not  
11 more than 1.4 percent of such deposits, the  
12 Corporation shall declare the amount in the  
13 Fund that is equal to 50 percent of the amount  
14 in excess of the amount required to maintain  
15 the reserve ratio at 1.35 percent of the esti-  
16 mated insured deposits as dividends to be paid  
17 to insured depository institutions.

18 “(C) BASIS FOR DISTRIBUTION OF DIVI-  
19 DENDS.—

20 “(i) IN GENERAL.—Solely for the pur-  
21 poses of dividend distribution under this  
22 paragraph and credit distribution under  
23 paragraph (3)(B), the Corporation shall  
24 determine each insured depository institu-  
25 tion’s relative contribution to the Deposit

1 Insurance Fund (or any predecessor de-  
2 posit insurance fund) for calculating such  
3 institution's share of any dividend or credit  
4 declared under this paragraph or para-  
5 graph (3)(B), taking into account the fac-  
6 tors described in clause (ii).

7 “(ii) FACTORS FOR DISTRIBUTION.—

8 In implementing this paragraph and para-  
9 graph (3)(B) in accordance with regula-  
10 tions, the Corporation shall take into ac-  
11 count the following factors:

12 “(I) The ratio of the assessment  
13 base of an insured depository institu-  
14 tion (including any predecessor) on  
15 December 31, 1996, to the assessment  
16 base of all eligible insured depository  
17 institutions on that date.

18 “(II) The total amount of assess-  
19 ments paid on or after January 1,  
20 1997, by an insured depository insti-  
21 tution (including any predecessor) to  
22 the Deposit Insurance Fund (and any  
23 predecessor deposit insurance fund).

24 “(III) That portion of assess-  
25 ments paid by an insured depository

1 institution (including any predecessor)  
2 that reflects higher levels of risk as-  
3 sumed by such institution.

4 “(IV) Such other factors as the  
5 Corporation may determine to be ap-  
6 propriate.

7 “(D) NOTICE AND OPPORTUNITY FOR  
8 COMMENT.—The Corporation shall prescribe by  
9 regulation, after notice and opportunity for  
10 comment, the method for the calculation, dec-  
11 laration, and payment of dividends under this  
12 paragraph.

13 “(3) CREDIT POOL.—

14 “(A) ONE-TIME CREDIT BASED ON TOTAL  
15 ASSESSMENT BASE AT YEAR-END 1996.—

16 “(i) IN GENERAL.—Before the end of  
17 the 270-day period beginning on the date  
18 of the enactment of the Federal Deposit  
19 Insurance Reform Act of 2005, the Board  
20 of Directors shall, by regulation, provide  
21 for a credit to each eligible insured deposi-  
22 tory institution, based on the assessment  
23 base of the institution (including any pred-  
24 ecessor institution) on December 31, 1996,  
25 as compared to the combined aggregate as-

1           assessment base of all eligible insured deposi-  
2           tory institutions, taking into account such  
3           factors as the Board of Directors may de-  
4           termine to be appropriate.

5           “(ii) CREDIT LIMIT.—The aggregate  
6           amount of credits available under clause (i)  
7           to all eligible insured depository institu-  
8           tions shall equal the amount that the Cor-  
9           poration could collect if the Corporation  
10          imposed an assessment of 12 basis points  
11          on the combined assessment base of the  
12          Bank Insurance Fund and the Savings As-  
13          sociation Insurance Fund as of December  
14          31, 2001.

15          “(iii) ELIGIBLE INSURED DEPOSITORY  
16          INSTITUTION DEFINED.—For purposes of  
17          this paragraph, the term ‘eligible insured  
18          depository institution’ means any insured  
19          depository institution that—

20                  “(I) was in existence on Decem-  
21                  ber 31, 1996, and paid a deposit in-  
22                  surance assessment prior to that date;  
23                  or

1           “(II) is a successor to any in-  
2           sured depository institution described  
3           in subclause (I).

4           “(iv) APPLICATION OF CREDITS.—

5           “(I) IN GENERAL.—The amount  
6           of a credit to any eligible insured de-  
7           pository institution under this para-  
8           graph shall be applied by the Corpora-  
9           tion, subject to subsection (b)(3)(E),  
10          to the assessments imposed on such  
11          institution under subsection (b) that  
12          become due for assessment periods be-  
13          ginning after the effective date of reg-  
14          ulations prescribed under clause (i).

15          “(II) REGULATIONS.—The regu-  
16          lations prescribed under clause (i)  
17          shall establish the qualifications and  
18          procedures governing the application  
19          of assessment credits pursuant to sub-  
20          clause (I).

21          “(v) LIMITATION ON AMOUNT OF  
22          CREDIT FOR CERTAIN DEPOSITORY INSTI-  
23          TUTIONS.—In the case of an insured de-  
24          pository institution that exhibits financial,  
25          operational, or compliance weaknesses

1 ranging from moderately severe to unsatis-  
2 factory, or is not adequately capitalized (as  
3 defined in section 38) at the beginning of  
4 an assessment period, the amount of any  
5 credit allowed under this paragraph  
6 against the assessment on that depository  
7 institution for such period may not exceed  
8 the amount calculated by applying to that  
9 depository institution the average assess-  
10 ment rate on all insured depository institu-  
11 tions for such assessment period.

12 “(vi) PREDECESSOR DEFINED.—For  
13 purposes of this paragraph, the term ‘pred-  
14 ecessor’, when used with respect to any in-  
15 sured depository institution, includes any  
16 other insured depository institution ac-  
17 quired by or merged with such insured de-  
18 pository institution.

19 “(B) ON-GOING CREDIT POOL.—

20 “(i) IN GENERAL.—In addition to the  
21 credit provided pursuant to subparagraph  
22 (A) and subject to the limitation contained  
23 in clause (v) of such subparagraph, the  
24 Corporation shall, by regulation, establish  
25 an on-going system of credits to be applied

1           against future assessments under sub-  
2           section (b)(1) on the same basis as the  
3           dividends provided under paragraph  
4           (2)(C).

5           “(ii) LIMITATION ON CREDITS UNDER  
6           CERTAIN CIRCUMSTANCES.—No credits  
7           may be awarded by the Corporation under  
8           this subparagraph during any period in  
9           which—

10                   “(I) the reserve ratio of the De-  
11                   posit Insurance Fund is less than the  
12                   designated reserve ratio of such Fund;  
13                   or

14                   “(II) the reserve ratio of the  
15                   Fund is less than 1.25 percent of the  
16                   amount of estimated insured deposits.

17           “(iii) CRITERIA FOR DETERMINA-  
18           TION.—In determining the amounts of any  
19           assessment credits under this subpara-  
20           graph, the Board of Directors shall take  
21           into account the factors for designating the  
22           reserve ratio under subsection (b)(3) and  
23           the factors for setting assessments under  
24           subsection (b)(2)(B).

25           “(4) ADMINISTRATIVE REVIEW.—

1           “(A) IN GENERAL.—The regulations pre-  
2           scribed under paragraph (2)(D) and subpara-  
3           graphs (A) and (B) of paragraph (3) shall in-  
4           clude provisions allowing an insured depository  
5           institution a reasonable opportunity to chal-  
6           lenge administratively the amount of the credit  
7           or dividend determined under paragraph (2) or  
8           (3) for such institution.

9           “(B) ADMINISTRATIVE REVIEW.—Any re-  
10          view under subparagraph (A) of any determina-  
11          tion of the Corporation under paragraph (2) or  
12          (3) shall be final and not subject to judicial re-  
13          view.”.

14          (b) DEFINITION OF RESERVE RATIO.—Section 3(y)  
15          of the Federal Deposit Insurance Act (12 U.S.C. 1813(y))  
16          (as amended by section 4005(b) of this subtitle) is amend-  
17          ed by adding at the end the following new paragraph:

18                 “(3) RESERVE RATIO.—The term ‘reserve  
19                 ratio’, when used with regard to the Deposit Insur-  
20                 ance Fund other than in connection with a reference  
21                 to the designated reserve ratio, means the ratio of  
22                 the net worth of the Deposit Insurance Fund to the  
23                 value of the aggregate estimated insured deposits.”.

1 **SEC. 4008. DEPOSIT INSURANCE FUND RESTORATION**  
2 **PLANS.**

3 Section 7(b)(3) of the Federal Deposit Insurance Act  
4 (12 U.S.C. 1817(b)(3)) (as amended by section 4005(a)  
5 of this subtitle) is amended by adding at the end the fol-  
6 lowing new subparagraph:

7 “(E) DIF RESTORATION PLANS.—

8 “(i) IN GENERAL.—Whenever—

9 “(I) the Corporation projects  
10 that the reserve ratio of the Deposit  
11 Insurance Fund will, within 6 months  
12 of such determination, fall below the  
13 minimum amount specified in sub-  
14 paragraph (B)(ii) for the designated  
15 reserve ratio; or

16 “(II) the reserve ratio of the De-  
17 posit Insurance Fund actually falls  
18 below the minimum amount specified  
19 in subparagraph (B)(ii) for the des-  
20 ignated reserve ratio without any de-  
21 termination under subclause (I) hav-  
22 ing been made,

23 the Corporation shall establish and imple-  
24 ment a Deposit Insurance Fund restora-  
25 tion plan within 90 days that meets the re-  
26 quirements of clause (ii) and such other

1 conditions as the Corporation determines  
2 to be appropriate.

3 “(ii) REQUIREMENTS OF RESTORA-  
4 TION PLAN.—A Deposit Insurance Fund  
5 restoration plan meets the requirements of  
6 this clause if the plan provides that the re-  
7 serve ratio of the Fund will meet or exceed  
8 the minimum amount specified in subpara-  
9 graph (B)(ii) for the designated reserve  
10 ratio before the end of the 10-year period  
11 beginning upon the implementation of the  
12 plan.

13 “(iii) RESTRICTION ON ASSESSMENT  
14 CREDITS.—As part of any restoration plan  
15 under this subparagraph, the Corporation  
16 may elect to restrict the application of as-  
17 sessment credits provided under subsection  
18 (e)(3) for any period that the plan is in ef-  
19 fect.

20 “(iv) LIMITATION ON RESTRICTION.—  
21 Notwithstanding clause (iii), while any res-  
22 toration plan under this subparagraph is in  
23 effect, the Corporation shall apply credits  
24 provided to an insured depository institu-  
25 tion under subsection (e)(3) against any

1 assessment imposed on the institution for  
2 any assessment period in an amount equal  
3 to the lesser of—

4 “(I) the amount of the assess-  
5 ment; or

6 “(II) the amount equal to 3 basis  
7 points of the institution’s assessment  
8 base.

9 “(v) TRANSPARENCY.—Not more than  
10 30 days after the Corporation establishes  
11 and implements a restoration plan under  
12 clause (i), the Corporation shall publish in  
13 the Federal Register a detailed analysis of  
14 the factors considered and the basis for the  
15 actions taken with regard to the plan.”.

16 **SEC. 4009. REGULATIONS REQUIRED.**

17 (a) IN GENERAL.—Not later than 270 days after the  
18 date of the enactment of this Act, the Board of Directors  
19 of the Federal Deposit Insurance Corporation shall pre-  
20 scribe final regulations, after notice and opportunity for  
21 comment—

22 (1) designating the reserve ratio for the Deposit  
23 Insurance Fund in accordance with section 7(b)(3)  
24 of the Federal Deposit Insurance Act (as amended  
25 by section 4005 of this subtitle);

1           (2) implementing increases in deposit insurance  
2 coverage in accordance with the amendments made  
3 by section 4003 of this subtitle;

4           (3) implementing the dividend requirement  
5 under section 7(e)(2) of the Federal Deposit Insur-  
6 ance Act (as amended by section 4007 of this sub-  
7 title);

8           (4) implementing the 1-time assessment credit  
9 to certain insured depository institutions in accord-  
10 ance with section 7(e)(3) of the Federal Deposit In-  
11 surance Act, as amended by section 4007 of this  
12 subtitle, including the qualifications and procedures  
13 under which the Corporation would apply assess-  
14 ment credits; and

15           (5) providing for assessments under section  
16 7(b) of the Federal Deposit Insurance Act, as  
17 amended by this subtitle.

18       (b) RULE OF CONSTRUCTION.—No provision of this  
19 subtitle or any amendment made by this subtitle shall be  
20 construed as affecting the authority of the Corporation to  
21 set or collect deposit insurance assessments before the ef-  
22 fective date of the final regulations prescribed under sub-  
23 section (a).

1 **SEC. 4010. STUDIES OF FDIC STRUCTURE AND EXPENSES**  
2 **AND CERTAIN ACTIVITIES AND FURTHER**  
3 **POSSIBLE CHANGES TO DEPOSIT INSURANCE**  
4 **SYSTEM.**

5 (a) STUDY BY COMPTROLLER GENERAL.—

6 (1) STUDY REQUIRED.—The Comptroller Gen-  
7 eral shall conduct a study of the following issues:

8 (A) The efficiency and effectiveness of the  
9 administration of the prompt corrective action  
10 program under section 38 of the Federal De-  
11 posit Insurance Act by the Federal banking  
12 agencies (as defined in section 3 of such Act),  
13 including the degree of effectiveness of such  
14 agencies in identifying troubled depository insti-  
15 tutions and taking effective action with respect  
16 to such institutions, and the degree of accuracy  
17 of the risk assessments made by the Corpora-  
18 tion.

19 (B) The appropriateness of the organiza-  
20 tional structure of the Federal Deposit Insur-  
21 ance Corporation for the mission of the Cor-  
22 poration taking into account—

23 (i) the current size and complexity of  
24 the business of insured depository institu-  
25 tions (as such term is defined in section 3  
26 of the Federal Deposit Insurance Act);

1                   (ii) the extent to which the organiza-  
2                   tional structure contributes to or reduces  
3                   operational inefficiencies that increase  
4                   operational costs; and

5                   (iii) the effectiveness of internal con-  
6                   trols.

7                   (2) REPORT TO THE CONGRESS.—The Comp-  
8                   troller General shall submit a report to the Congress  
9                   before the end of the 1-year period beginning on the  
10                  date of the enactment of this Act containing the  
11                  findings and conclusions of the Comptroller General  
12                  with respect to the study required under paragraph  
13                  (1) together with such recommendations for legisla-  
14                  tive or administrative action as the Comptroller Gen-  
15                  eral may determine to be appropriate.

16                  (b) STUDY OF FURTHER POSSIBLE CHANGES TO DE-  
17                  POSIT INSURANCE SYSTEM.—

18                   (1) STUDY REQUIRED.—The Board of Directors  
19                   of the Federal Deposit Insurance Corporation and  
20                   the National Credit Union Administration Board  
21                   shall each conduct a study of the following:

22                   (A) The feasibility of establishing a vol-  
23                   untary deposit insurance system for deposits in  
24                   excess of the maximum amount of deposit in-  
25                   surance for any depositor and the potential ben-

1           efits and the potential adverse consequences  
2           that may result from the establishment of any  
3           such system.

4                   (B) The feasibility of privatizing all deposit  
5           insurance at insured depository institutions and  
6           insured credit unions.

7           (2) REPORT.—Before the end of the 1-year pe-  
8           riod beginning on the date of the enactment of this  
9           Act, the Board of Directors of the Federal Deposit  
10          Insurance Corporation and the National Credit  
11          Union Administration Board shall each submit a re-  
12          port to the Congress on the study required under  
13          paragraph (1) containing the findings and conclu-  
14          sions of the reporting agency together with such rec-  
15          ommendations for legislative or administrative  
16          changes as the agency may determine to be appro-  
17          priate.

18          (c) STUDY REGARDING APPROPRIATE DEPOSIT BASE  
19          IN DESIGNATING RESERVE RATIO.—

20                   (1) STUDY REQUIRED.—The Federal Deposit  
21          Insurance Corporation shall conduct a study of the  
22          feasibility of using actual domestic deposits rather  
23          than estimated insured deposits in calculating the  
24          reserve ratio of the Deposit Insurance Fund and  
25          designating a reserve ratio for such Fund.

1           (2) REPORT.—The Federal Deposit Insurance  
2 Corporation shall submit a report to the Congress  
3 before the end of the 1-year period beginning on the  
4 date of the enactment of this Act containing the  
5 findings and conclusions of the Corporation with re-  
6 spect to the study required under paragraph (1) to-  
7 gether with such recommendations for legislative or  
8 administrative action as the Board of Directors of  
9 the Corporation may determine to be appropriate.

10          (d) STUDY OF RESERVE METHODOLOGY AND AC-  
11 COUNTING FOR LOSS.—

12           (1) STUDY REQUIRED.—The Federal Deposit  
13 Insurance Corporation shall conduct a study of the  
14 reserve methodology and loss accounting used by the  
15 Corporation during the period beginning on January  
16 1, 1992, and ending December 31, 2004, with re-  
17 spect to insured depository institutions in a troubled  
18 condition (as defined in the regulations prescribed  
19 pursuant to section 32(f) of the Federal Deposit In-  
20 surance Act). The Corporation shall obtain com-  
21 ments on the design of the study from the Comp-  
22 troller General.

23           (2) FACTORS TO BE INCLUDED.—In conducting  
24 the study pursuant to paragraph (1), the Federal  
25 Deposit Insurance Corporation shall—

1 (A) consider the overall effectiveness and  
2 accuracy of the methodology used by the Cor-  
3 poration for establishing and maintaining re-  
4 serves and estimating and accounting for losses  
5 at insured depository institutions, during the  
6 period described in such paragraph;

7 (B) consider the appropriateness and reli-  
8 ability of information and criteria used by the  
9 Corporation in determining—

10 (i) whether an insured depository in-  
11 stitution was in a troubled condition; and

12 (ii) the amount of any loss anticipated  
13 at such institution;

14 (C) analyze the actual historical loss expe-  
15 rience over the period described in paragraph  
16 (1) and the causes of the exceptionally high  
17 rate of losses experienced by the Corporation in  
18 the final 3 years of that period; and

19 (D) rate the efforts of the Corporation to  
20 reduce losses in such 3-year period to minimally  
21 acceptable levels and to historical levels.

22 (3) REPORT REQUIRED.—The Board of Direc-  
23 tors of the Federal Deposit Insurance Corporation  
24 shall submit a report to the Congress before the end  
25 of the 6-month period beginning on the date of the

1 enactment of this Act, containing the findings and  
2 conclusions of the Corporation with respect to the  
3 study required under paragraph (1), together with  
4 such recommendations for legislative or administra-  
5 tive action as the Board of Directors may determine  
6 to be appropriate. Before submitting the report to  
7 Congress, the Board of Directors shall provide a  
8 draft of the report to the Comptroller General for  
9 comment.

10 **SEC. 4011. BI-ANNUAL FDIC SURVEY AND REPORT ON IN-**  
11 **CREASING THE DEPOSIT BASE BY ENCOUR-**  
12 **AGING USE OF DEPOSITORY INSTITUTIONS**  
13 **BY THE UNBANKED.**

14 The Federal Deposit Insurance Act (12 U.S.C. 1811  
15 et seq.) is amended by adding at the end the following  
16 new section:

17 **“SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON EN-**  
18 **COURAGING USE OF DEPOSITORY INSTITU-**  
19 **TIONS BY THE UNBANKED.**

20 “(a) SURVEY REQUIRED.—

21 “(1) IN GENERAL.—The Corporation shall con-  
22 duct a bi-annual survey on efforts by insured deposi-  
23 tory institutions to bring those individuals and fami-  
24 lies who have rarely, if ever, held a checking ac-  
25 count, a savings account or other type of transaction

1 or check cashing account at an insured depository  
2 institution (hereafter in this section referred to as  
3 the ‘unbanked’) into the conventional finance sys-  
4 tem.

5 “(2) FACTORS AND QUESTIONS TO CON-  
6 sider.—In conducting the survey, the Corporation  
7 shall take the following factors and questions into  
8 account:

9 “(A) To what extent do insured depository  
10 institutions promote financial education and fi-  
11 nancial literacy outreach?

12 “(B) Which financial education efforts ap-  
13 pear to be the most effective in bringing  
14 ‘unbanked’ individuals and families into the  
15 conventional finance system?

16 “(C) What efforts are insured institutions  
17 making at converting ‘unbanked’ money order,  
18 wire transfer, and international remittance cus-  
19 tomers into conventional account holders?

20 “(D) What cultural, language and identi-  
21 fication issues as well as transaction costs ap-  
22 pear to most prevent ‘unbanked’ individuals  
23 from establishing conventional accounts?

1           “(E) What is a fair estimate of the size  
2           and worth of the ‘unbanked’ market in the  
3           United States?”

4           “(b) REPORTS.—The Chairperson of the Board of  
5           Directors shall submit a bi-annual report to the Com-  
6           mittee on Financial Services of the House of Representa-  
7           tives and the Committee on Banking, Housing, and Urban  
8           Affairs of the Senate containing the Corporation’s findings  
9           and conclusions with respect to the survey conducted pur-  
10          suant to subsection (a), together with such recommenda-  
11          tions for legislative or administrative action as the Chair-  
12          person may determine to be appropriate.”.

13   **SEC. 4012. TECHNICAL AND CONFORMING AMENDMENTS**  
14                           **TO THE FEDERAL DEPOSIT INSURANCE ACT**  
15                           **RELATING TO THE MERGER OF THE BIF AND**  
16                           **SAIF.**

17          (a) IN GENERAL.—The Federal Deposit Insurance  
18          Act (12 U.S.C. 1811 et seq.) is amended—

19               (1) in section 3 (12 U.S.C. 1813)—

20                       (A) by striking subparagraph (B) of sub-  
21                       section (a)(1) and inserting the following new  
22                       subparagraph:

23                               “(B) includes any former savings associa-  
24                               tion.”; and

1 (B) by striking paragraph (1) of sub-  
2 section (y) (as so designated by section 4005(b)  
3 of this subtitle) and inserting the following new  
4 paragraph:

5 “(1) DEPOSIT INSURANCE FUND.—The term  
6 ‘Deposit Insurance Fund’ means the Deposit Insur-  
7 ance Fund established under section 11(a)(4).”;

8 (2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)),  
9 by striking “the Bank Insurance Fund or the Sav-  
10 ings Association Insurance Fund,” and inserting  
11 “the Deposit Insurance Fund,”;

12 (3) in section 5(c)(4), by striking “deposit in-  
13 surance fund” and inserting “Deposit Insurance  
14 Fund”;

15 (4) in section 5(d) (12 U.S.C. 1815(d)), by  
16 striking paragraphs (2) and (3) (and any funds re-  
17 sulting from the application of such paragraph (2)  
18 prior to its repeal shall be deposited into the general  
19 fund of the Deposit Insurance Fund);

20 (5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

21 (A) in subparagraph (A), by striking “re-  
22 serve ratios in the Bank Insurance Fund and  
23 the Savings Association Insurance Fund as re-  
24 quired by section 7” and inserting “the reserve  
25 ratio of the Deposit Insurance Fund”;

1 (B) by striking subparagraph (B) and in-  
2 serting the following:

3 “(2) **FEE CREDITED TO THE DEPOSIT INSUR-**  
4 **ANCE FUND.**—The fee paid by the depository insti-  
5 tution under paragraph (1) shall be credited to the  
6 Deposit Insurance Fund.”;

7 (C) by striking “(1) **UNINSURED INSTI-**  
8 **TUTIONS.**—”; and

9 (D) by redesignating subparagraphs (A)  
10 and (C) as paragraphs (1) and (3), respectively,  
11 and moving the left margins 2 ems to the left;  
12 (6) in section 5(e) (12 U.S.C. 1815(e))—

13 (A) in paragraph (5)(A), by striking  
14 “Bank Insurance Fund or the Savings Associa-  
15 tion Insurance Fund” and inserting “Deposit  
16 Insurance Fund”;

17 (B) by striking paragraph (6); and

18 (C) by redesignating paragraphs (7), (8),  
19 and (9) as paragraphs (6), (7), and (8), respec-  
20 tively;

21 (7) in section 6(5) (12 U.S.C. 1816(5)), by  
22 striking “Bank Insurance Fund or the Savings As-  
23 sociation Insurance Fund” and inserting “Deposit  
24 Insurance Fund”;

25 (8) in section 7(b) (12 U.S.C. 1817(b))—

1 (A) in paragraph (1)(C), by striking “de-  
2 posit insurance fund” each place that term ap-  
3 pears and inserting “Deposit Insurance Fund”;

4 (B) in paragraph (1)(D), by striking “each  
5 deposit insurance fund” and inserting “the De-  
6 posit Insurance Fund”; and

7 (C) in paragraph (5) (as so redesignated  
8 by section 4004(e)(4) of this subtitle)—

9 (i) by striking “any such assessment”  
10 and inserting “any such assessment is nec-  
11 essary”;

12 (ii) by striking subparagraph (B);

13 (iii) in subparagraph (A)—

14 (I) by striking “(A) is nec-  
15 essary—”;

16 (II) by striking “Bank Insurance  
17 Fund members” and inserting “in-  
18 sured depository institutions”; and

19 (III) by redesignating clauses (i),  
20 (ii), and (iii) as subparagraphs (A),  
21 (B), and (C), respectively, and moving  
22 the margins 2 ems to the left; and

23 (iv) in subparagraph (C) (as so redesi-  
24 gnated)—

1 (I) by inserting “that” before  
2 “the Corporation”; and

3 (II) by striking “; and” and in-  
4 serting a period;

5 (9) in section 7(j)(7)(F) (12 U.S.C.  
6 1817(j)(7)(F)), by striking “Bank Insurance Fund  
7 or the Savings Association Insurance Fund” and in-  
8 serting “Deposit Insurance Fund”;

9 (10) in section 8(t)(2)(C) (12 U.S.C.  
10 1818(t)(2)(C)), by striking “deposit insurance fund”  
11 and inserting “Deposit Insurance Fund”;

12 (11) in section 11 (12 U.S.C. 1821)—

13 (A) by striking “deposit insurance fund”  
14 each place that term appears and inserting  
15 “Deposit Insurance Fund”;

16 (B) by striking paragraph (4) of sub-  
17 section (a) and inserting the following new  
18 paragraph:

19 “(4) DEPOSIT INSURANCE FUND.—

20 “(A) ESTABLISHMENT.—There is estab-  
21 lished the Deposit Insurance Fund, which the  
22 Corporation shall—

23 “(i) maintain and administer;

1           “(ii) use to carry out its insurance  
2           purposes, in the manner provided by this  
3           subsection; and

4           “(iii) invest in accordance with section  
5           13(a).

6           “(B) USES.—The Deposit Insurance Fund  
7           shall be available to the Corporation for use  
8           with respect to insured depository institutions  
9           the deposits of which are insured by the De-  
10          posit Insurance Fund.

11          “(C) LIMITATION ON USE.—Notwith-  
12          standing any provision of law other than section  
13          13(c)(4)(G), the Deposit Insurance Fund shall  
14          not be used in any manner to benefit any share-  
15          holder or affiliate (other than an insured depos-  
16          itory institution that receives assistance in ac-  
17          cordance with the provisions of this Act) of—

18               “(i) any insured depository institution  
19               for which the Corporation has been ap-  
20               pointed conservator or receiver, in connec-  
21               tion with any type of resolution by the  
22               Corporation;

23               “(ii) any other insured depository in-  
24               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 sistance under this section or section 13  
6 with respect to such institution, except  
7 that this clause shall not prohibit any as-  
8 sistance to any insured depository institu-  
9 tion that is not in default, or that is not  
10 in danger of default, that is acquiring (as  
11 defined in section 13(f)(8)(B)) another in-  
12 sured depository 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  
18 (7) 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  
24 period;

1           (13) in section 11(i)(3) (12 U.S.C.  
2 1821(i)(3))—

3           (A) by striking subparagraph (B);

4           (B) by redesignating subparagraph (C) as  
5 subparagraph (B); and

6           (C) in subparagraph (B) (as so redesign-  
7 dated), by striking “subparagraphs (A) and  
8 (B)” and inserting “subparagraph (A)”;

9           (14) in section 11(p)(2)(B) (12 U.S.C.  
10 1821(p)(2)(B)), by striking “institution, any” and  
11 inserting “institution, the”;

12           (15) in section 11A(a) (12 U.S.C. 1821a(a))—

13           (A) in paragraph (2), by striking “**LIABIL-**  
14 **ITIES.—**” and all that follows through “**Ex-**  
15 **cept**” and inserting “**LIABILITIES.—Except**”;

16           (B) by striking paragraph (2)(B); and

17           (C) in paragraph (3), by striking “the  
18 Bank Insurance Fund, the Savings Association  
19 Insurance Fund,” and inserting “the Deposit  
20 Insurance Fund”;

21           (16) in section 11A(b) (12 U.S.C. 1821a(b)),  
22 by striking paragraph (4);

23           (17) in section 11A(f) (12 U.S.C. 1821a(f)), by  
24 striking “Savings Association Insurance Fund” and  
25 inserting “Deposit Insurance Fund”;

1           (18) in section 12(f)(4)(E)(iv) (12 U.S.C.  
2           1822(f)(4)(E)(iv)), by striking “Federal deposit in-  
3           surance funds” and inserting “the Deposit Insur-  
4           ance Fund (or any predecessor deposit insurance  
5           fund)”;

6           (19) in section 13 (12 U.S.C. 1823)—

7           (A) by striking “deposit insurance fund”  
8           each place that term appears and inserting  
9           “Deposit Insurance Fund”;

10          (B) in subsection (a)(1), by striking “Bank  
11          Insurance Fund, the Savings Association Insur-  
12          ance Fund,” and inserting “Deposit Insurance  
13          Fund”;

14          (C) in subsection (c)(4)(E)—

15           (i) in the subparagraph heading, by  
16           striking “funds” and inserting “fund”; and

17           (ii) in clause (i), by striking “any in-  
18           surance fund” and inserting “the Deposit  
19           Insurance Fund”;

20          (D) in subsection (c)(4)(G)(ii)—

21           (i) by striking “appropriate insurance  
22           fund” and inserting “Deposit Insurance  
23           Fund”;

24           (ii) by striking “the members of the  
25           insurance fund (of which such institution

1 is a member)” and inserting “insured de-  
2 pository institutions”;

3 (iii) by striking “each member’s” and  
4 inserting “each insured depository institu-  
5 tion’s”; and

6 (iv) by striking “the member’s” each  
7 place that term appears and inserting “the  
8 institution’s”;

9 (E) in subsection (c), by striking para-  
10 graph (11);

11 (F) in subsection (h), by striking “Bank  
12 Insurance Fund” and inserting “Deposit Insur-  
13 ance Fund”;

14 (G) in subsection (k)(4)(B)(i), by striking  
15 “Savings Association Insurance Fund member”  
16 and inserting “savings association”; and

17 (H) in subsection (k)(5)(A), by striking  
18 “Savings Association Insurance Fund mem-  
19 bers” and inserting “savings associations”;

20 (20) in section 14(a) (12 U.S.C. 1824(a)), in  
21 the 5th sentence—

22 (A) by striking “Bank Insurance Fund or  
23 the Savings Association Insurance Fund” and  
24 inserting “Deposit Insurance Fund”; and

1 (B) by striking “each such fund” and in-  
2 serting “the Deposit Insurance Fund”;

3 (21) in section 14(b) (12 U.S.C. 1824(b)), by  
4 striking “Bank Insurance Fund or Savings Associa-  
5 tion Insurance Fund” and inserting “Deposit Insur-  
6 ance Fund”;

7 (22) in section 14(c) (12 U.S.C. 1824(c)), by  
8 striking paragraph (3);

9 (23) in section 14(d) (12 U.S.C. 1824(d))—

10 (A) by striking “Bank Insurance Fund  
11 member” each place that term appears and in-  
12 serting “insured depository institution”;

13 (B) by striking “Bank Insurance Fund  
14 members” each place that term appears and in-  
15 serting “insured depository institutions”;

16 (C) by striking “Bank Insurance Fund”  
17 each place that term appears (other than in  
18 connection with a reference to a term amended  
19 by subparagraph (A) or (B) of this paragraph)  
20 and inserting “Deposit Insurance Fund”;

21 (D) by striking the subsection heading and  
22 inserting the following:

23 “(d) BORROWING FOR THE DEPOSIT INSURANCE  
24 FUND FROM INSURED DEPOSITORY INSTITUTIONS.—”;

1           (E) in paragraph (3), in the paragraph  
2 heading, by striking “BIF” and inserting “THE  
3 DEPOSIT INSURANCE FUND”; and

4           (F) in paragraph (5), in the paragraph  
5 heading, by striking “BIF MEMBERS” and in-  
6 serting “INSURED DEPOSITORY INSTITUTIONS”;

7           (24) in section 14 (12 U.S.C. 1824), by adding  
8 at the end the following new subsection:

9           “(e) BORROWING FOR THE DEPOSIT INSURANCE  
10 FUND FROM FEDERAL HOME LOAN BANKS.—

11           “(1) IN GENERAL.—The Corporation may bor-  
12 row from the Federal home loan banks, with the  
13 concurrence of the Federal Housing Finance Board,  
14 such funds as the Corporation considers necessary  
15 for the use of the Deposit Insurance Fund.

16           “(2) TERMS AND CONDITIONS.—Any loan from  
17 any Federal home loan bank under paragraph (1) to  
18 the Deposit Insurance Fund shall—

19           “(A) bear a rate of interest of not less  
20 than the current marginal cost of funds to that  
21 bank, taking into account the maturities in-  
22 volved;

23           “(B) be adequately secured, as determined  
24 by the Federal Housing Finance Board;

1           “(C) be a direct liability of the Deposit In-  
2           surance Fund; and

3           “(D) be subject to the limitations of sec-  
4           tion 15(c).”;

5           (25) in section 15(c)(5) (12 U.S.C.  
6           1825(c)(5))—

7           (A) by striking “the Bank Insurance Fund  
8           or Savings Association Insurance Fund, respec-  
9           tively” each place that term appears and insert-  
10          ing “the Deposit Insurance Fund”; and

11          (B) in subparagraph (B), by striking “the  
12          Bank Insurance Fund or the Savings Associa-  
13          tion Insurance Fund, respectively” and insert-  
14          ing “the Deposit Insurance Fund”;

15          (26) in section 17(a) (12 U.S.C. 1827(a))—

16          (A) in the subsection heading, by striking  
17          “BIF, SAIF,” and inserting “THE DEPOSIT IN-  
18          SURANCE FUND”; and

19          (B) in paragraph (1)—

20                  (i) by striking “the Bank Insurance  
21                  Fund, the Savings Association Insurance  
22                  Fund,” each place that term appears and  
23                  inserting “the Deposit Insurance Fund”;  
24                  and

1 (ii) in subparagraph (D), by striking  
2 “each insurance fund” and inserting “the  
3 Deposit Insurance Fund”;

4 (27) in section 17(d) (12 U.S.C. 1827(d)), by  
5 striking “, the Bank Insurance Fund, the Savings  
6 Association Insurance Fund,” each place that term  
7 appears and inserting “the Deposit Insurance  
8 Fund”;

9 (28) in section 18(m)(3) (12 U.S.C.  
10 1828(m)(3))—

11 (A) by striking “Savings Association In-  
12 surance Fund” in the 1st sentence of subpara-  
13 graph (A) and inserting “Deposit Insurance  
14 Fund”;

15 (B) by striking “Savings Association In-  
16 surance Fund member” in the last sentence of  
17 subparagraph (A) and inserting “savings asso-  
18 ciation”; and

19 (C) by striking “Savings Association Insur-  
20 ance Fund or the Bank Insurance Fund” in  
21 subparagraph (C) and inserting “Deposit Insur-  
22 ance Fund”;

23 (29) in section 18(o) (12 U.S.C. 1828(o)), by  
24 striking “deposit insurance funds” and “deposit in-

1 insurance fund” each place those terms appear and in-  
2 sserting “Deposit Insurance Fund”;

3 (30) in section 18(p) (12 U.S.C. 1828(p)), by  
4 striking “deposit insurance funds” and inserting  
5 “Deposit Insurance Fund”;

6 (31) in section 24 (12 U.S.C. 1831a)—

7 (A) in subsections (a)(1) and (d)(1)(A), by  
8 striking “appropriate deposit insurance fund”  
9 each place that term appears and inserting  
10 “Deposit Insurance Fund”;

11 (B) in subsection (e)(2)(A), by striking  
12 “risk to” and all that follows through the pe-  
13 riod and inserting “risk to the Deposit Insur-  
14 ance Fund.”; and

15 (C) in subsections (e)(2)(B)(ii) and  
16 (f)(6)(B), by striking “the insurance fund of  
17 which such bank is a member” each place that  
18 term appears and inserting “the Deposit Insur-  
19 ance Fund”;

20 (32) in section 28 (12 U.S.C. 1831e), by strik-  
21 ing “affected deposit insurance fund” each place  
22 that term appears and inserting “Deposit Insurance  
23 Fund”;

24 (33) by striking section 31 (12 U.S.C. 1831h);

1           (34) in section 36(i)(3) (12 U.S.C.  
2 1831m(i)(3)), by striking “affected deposit insur-  
3 ance fund” and inserting “Deposit Insurance  
4 Fund”;

5           (35) in section 37(a)(1)(C) (12 U.S.C.  
6 1831n(a)(1)(C)), by striking “insurance funds” and  
7 inserting “Deposit Insurance Fund”;

8           (36) in section 38 (12 U.S.C. 1831o), by strik-  
9 ing “the deposit insurance fund” each place that  
10 term appears and inserting “the Deposit Insurance  
11 Fund”;

12           (37) in section 38(a) (12 U.S.C. 1831o(a)), in  
13 the subsection heading, by striking “FUNDS” and in-  
14 serting “FUND”;

15           (38) in section 38(k) (12 U.S.C. 1831o(k))—

16           (A) in paragraph (1), by striking “a de-  
17 posit insurance fund” and inserting “the De-  
18 posit Insurance Fund”;

19           (B) in paragraph (2), by striking “A de-  
20 posit insurance fund” and inserting “The De-  
21 posit Insurance Fund”; and

22           (C) in paragraphs (2)(A) and (3)(B), by  
23 striking “the deposit insurance fund’s outlays”  
24 each place that term appears and inserting “the  
25 outlays of the Deposit Insurance Fund”; and

1 (39) in section 38(o) (12 U.S.C. 1831o(o))—

2 (A) by striking “**ASSOCIATIONS.—**” and  
3 all that follows through “Subsections (e)(2)”  
4 and inserting “**ASSOCIATIONS.—**Subsections  
5 (e)(2)”;

6 (B) by redesignating subparagraphs (A),  
7 (B), and (C) as paragraphs (1), (2), and (3),  
8 respectively, and moving the margins 2 ems to  
9 the left; and

10 (C) in paragraph (1) (as so redesignated),  
11 by redesignating clauses (i) and (ii) as subpara-  
12 graphs (A) and (B), respectively, and moving  
13 the margins 2 ems to the left.

14 (b) **EFFECTIVE DATE.**—This section and the amend-  
15 ments made by this section shall take effect on the first  
16 day of the first calendar quarter that begins after the end  
17 of the 90-day period beginning on the date of the enact-  
18 ment of this Act.

19 **SEC. 4013. OTHER TECHNICAL AND CONFORMING AMEND-**  
20 **MENTS RELATING TO THE MERGER OF THE**  
21 **BIF AND SAIF.**

22 (a) **SECTION 5136 OF THE REVISED STATUTES.**—  
23 The paragraph designated the “Eleventh” of section 5136  
24 of the Revised Statutes of the United States (12 U.S.C.  
25 24) is amended in the 5th sentence, by striking “affected

1 deposit insurance fund” and inserting “Deposit Insurance  
2 Fund”.

3 (b) INVESTMENTS PROMOTING PUBLIC WELFARE;  
4 LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d  
5 undesignated paragraph of section 9 of the Federal Re-  
6 serve Act (12 U.S.C. 338a) is amended in the 4th sen-  
7 tence, by striking “affected deposit insurance fund” and  
8 inserting “Deposit Insurance Fund”.

9 (c) ADVANCES TO CRITICALLY UNDERCAPITALIZED  
10 DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of  
11 the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is  
12 amended by striking “any deposit insurance fund in” and  
13 inserting “the Deposit Insurance Fund of”.

14 (d) AMENDMENTS TO THE BALANCED BUDGET AND  
15 EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section  
16 255(g)(1)(A) of the Balanced Budget and Emergency  
17 Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is  
18 amended—

19 (1) by striking “Bank Insurance Fund” and in-  
20 sserting “Deposit Insurance Fund”; and

21 (2) by striking “Federal Deposit Insurance Cor-  
22 poration, Savings Association Insurance Fund (51-  
23 4066-0-3-373);”.

1 (e) AMENDMENTS TO THE FEDERAL HOME LOAN  
2 BANK ACT.—The Federal Home Loan Bank Act (12  
3 U.S.C. 1421 et seq.) is amended—

4 (1) in section 11(k) (12 U.S.C. 1431(k))—

5 (A) in the subsection heading, by striking  
6 “SAIF” and inserting “THE DEPOSIT INSUR-  
7 ANCE FUND”; and

8 (B) by striking “Savings Association In-  
9 surance Fund” each place such term appears  
10 and inserting “Deposit Insurance Fund”;

11 (2) in section 21 (12 U.S.C. 1441)—

12 (A) in subsection (f)(2), by striking “, ex-  
13 cept that” and all that follows through the end  
14 of the paragraph and inserting a period; and

15 (B) in subsection (k), by striking para-  
16 graph (4);

17 (3) in section 21A(b)(4)(B) (12 U.S.C.  
18 1441a(b)(4)(B)), by striking “affected deposit insur-  
19 ance fund” and inserting “Deposit Insurance  
20 Fund”;

21 (4) in section 21A(b)(6)(B) (12 U.S.C.  
22 1441a(b)(6)(B))—

23 (A) in the subparagraph heading, by strik-  
24 ing “SAIF-INSURED BANKS” and inserting  
25 “CHARTER CONVERSIONS”; and

1 (B) by striking “Savings Association In-  
2 surance Fund member” and inserting “savings  
3 association”;

4 (5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C.  
5 1441a(b)(10)(A)(iv)(II)), by striking “Savings Asso-  
6 ciation Insurance Fund” and inserting “Deposit In-  
7 surance Fund”;

8 (6) in section 21A(n)(6)(E)(iv) (12 U.S.C.  
9 1441(n)(6)(E)(iv)), by striking “Federal deposit in-  
10 surance funds” and inserting “the Deposit Insur-  
11 ance Fund”;

12 (7) in section 21B(e) (12 U.S.C. 1441b(e))—

13 (A) in paragraph (5), by inserting “as of  
14 the date of funding” after “Savings Association  
15 Insurance Fund members” each place that term  
16 appears; and

17 (B) by striking paragraphs (7) and (8);  
18 and

19 (8) in section 21B(k) (12 U.S.C. 1441b(k))—

20 (A) by inserting before the colon “, the fol-  
21 lowing definitions shall apply”;

22 (B) by striking paragraph (8); and

23 (C) by redesignating paragraphs (9) and  
24 (10) as paragraphs (8) and (9), respectively.

1 (f) AMENDMENTS TO THE HOME OWNERS' LOAN  
2 ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et  
3 seq.) is amended—

4 (1) in section 5 (12 U.S.C. 1464)—

5 (A) in subsection (c)(5)(A), by striking  
6 “that is a member of the Bank Insurance  
7 Fund”;

8 (B) in subsection (c)(6), by striking “As  
9 used in this subsection—” and inserting “For  
10 purposes of this subsection, the following defini-  
11 tions shall apply.”;

12 (C) in subsection (o)(1), by striking “that  
13 is a Bank Insurance Fund member”;

14 (D) in subsection (o)(2)(A), by striking “a  
15 Bank Insurance Fund member until such time  
16 as it changes its status to a Savings Association  
17 Insurance Fund member” and inserting “in-  
18 sured by the Deposit Insurance Fund”;

19 (E) in subsection (t)(5)(D)(iii)(II), by  
20 striking “affected deposit insurance fund” and  
21 inserting “Deposit Insurance Fund”;

22 (F) in subsection (t)(7)(C)(i)(I), by strik-  
23 ing “affected deposit insurance fund” and in-  
24 sserting “Deposit Insurance Fund”; and

1 (G) in subsection (v)(2)(A)(i), by striking  
2 “the Savings Association Insurance Fund” and  
3 inserting “or the Deposit Insurance Fund”; and  
4 (2) in section 10 (12 U.S.C. 1467a)—

5 (A) in subsection (e)(6)(D), by striking  
6 “this title” and inserting “this Act”;

7 (B) in subsection (e)(1)(B), by striking  
8 “Savings Association Insurance Fund or Bank  
9 Insurance Fund” and inserting “Deposit Insur-  
10 ance Fund”;

11 (C) in subsection (e)(2), by striking “Sav-  
12 ings Association Insurance Fund or the Bank  
13 Insurance Fund” and inserting “Deposit Insur-  
14 ance Fund”;

15 (D) in subsection (e)(4)(B), by striking  
16 “subsection (1)” and inserting “subsection (l)”;

17 (E) in subsection (g)(3)(A), by striking  
18 “(5) of this section” and inserting “(5) of this  
19 subsection”;

20 (F) in subsection (i), by redesignating  
21 paragraph (5) as paragraph (4);

22 (G) in subsection (m)(3), by striking sub-  
23 paragraph (E) and by redesignating subpara-  
24 graphs (F), (G), and (H) as subparagraphs  
25 (E), (F), and (G), respectively;

1 (H) in subsection (m)(7)(A), by striking  
2 “during period” and inserting “during the pe-  
3 riod”; and

4 (I) in subsection (o)(3)(D), by striking  
5 “sections 5(s) and (t) of this Act” and inserting  
6 “subsections (s) and (t) of section 5”.

7 (g) AMENDMENTS TO THE NATIONAL HOUSING  
8 ACT.—The National Housing Act (12 U.S.C. 1701 et  
9 seq.) is amended—

10 (1) in section 317(b)(1)(B) (12 U.S.C.  
11 1723i(b)(1)(B)), by striking “Bank Insurance Fund  
12 for banks or through the Savings Association Insur-  
13 ance Fund for savings associations” and inserting  
14 “Deposit Insurance Fund”; and

15 (2) in section 536(b)(1)(B)(ii) (12 U.S.C.  
16 1735f–14(b)(1)(B)(ii)), by striking “Bank Insurance  
17 Fund for banks and through the Savings Association  
18 Insurance Fund for savings associations” and insert-  
19 ing “Deposit Insurance Fund”.

20 (h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS  
21 REFORM, RECOVERY, AND ENFORCEMENT ACT OF  
22 1989.—The Financial Institutions Reform, Recovery, and  
23 Enforcement Act of 1989 (12 U.S.C. 1811 note) is  
24 amended—

1           (1) in section 951(b)(3)(B) (12 U.S.C.  
2           1833a(b)(3)(B)), by inserting “and after the merger  
3           of such funds, the Deposit Insurance Fund,” after  
4           “the Savings Association Insurance Fund,”; and

5           (2) in section 1112(c)(1)(B) (12 U.S.C.  
6           3341(c)(1)(B)), by striking “Bank Insurance Fund,  
7           the Savings Association Insurance Fund,” and in-  
8           serting “Deposit Insurance Fund”.

9           (i) AMENDMENT TO THE BANK HOLDING COMPANY  
10          ACT OF 1956.—The Bank Holding Company Act of 1956  
11          (12 U.S.C. 1841 et seq.) is amended—

12           (1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by  
13           striking “Savings Association Insurance Fund” and  
14           inserting “Deposit Insurance Fund”; and

15           (2) in section 3(d)(1)(D)(iii) (12 U.S.C.  
16           1842(d)(1)(D)(iii)), by striking “appropriate deposit  
17           insurance fund” and inserting “Deposit Insurance  
18           Fund”.

19           (j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY  
20          ACT.—Section 114 of the Gramm-Leach-Bliley Act (12  
21          U.S.C. 1828a) is amended by striking “any Federal de-  
22          posit insurance fund” in subsection (a)(1)(B), paragraphs  
23          (2)(B) and (4)(B) of subsection (b), and subsection  
24          (c)(1)(B), each place that term appears and inserting “the  
25          Deposit Insurance Fund”.

1 (k) EFFECTIVE DATE.—This section and the amend-  
2 ments made by this section shall take effect on the first  
3 day of the first calendar quarter that begins after the end  
4 of the 90-day period beginning on the date of the enact-  
5 ment of this Act.

## 6 **Subtitle B—FHA Asset Disposition**

### 7 **SEC. 4101. SHORT TITLE.**

8 This subtitle may be cited as the “FHA Asset Dis-  
9 position Act of 2005”.

### 10 **SEC. 4102. DEFINITIONS.**

11 For purposes of this subtitle, the following definitions  
12 shall apply:

13 (1) The term “affordability requirements”  
14 means any requirements or restrictions imposed by  
15 the Secretary, at the time of sale, on a multifamily  
16 real property or a multifamily loan, such as use re-  
17 strictions, rent restrictions, and rehabilitation re-  
18 quirements.

19 (2) The term “discount sale” means the sale of  
20 a multifamily real property in a transaction, such as  
21 a negotiated sale, in which the sale price is lower  
22 than the property market value and is set outside of  
23 a competitive bidding process that has no afford-  
24 ability requirements.

1           (3) The term “discount loan sale” means the  
2 sale of a multifamily loan in a transaction, such as  
3 a negotiated sale, in which the sale price is lower  
4 than the loan market value and is set outside of a  
5 competitive bidding process that has no affordability  
6 requirements.

7           (4) The term “loan market value” means the  
8 value of a multifamily loan, without taking into ac-  
9 count any affordability requirements.

10          (5) The term “multifamily real property”  
11 means any rental or cooperative housing project of  
12 5 or more units owned by the Secretary that prior  
13 to acquisition by the Secretary was security for a  
14 loan or loans insured under title II of the National  
15 Housing Act.

16          (6) The term “multifamily loan” means a loan  
17 held by the Secretary and secured by a multifamily  
18 rental or cooperative housing project of 5 or more  
19 units that was formerly insured under title II of the  
20 National Housing Act.

21          (7) The term “property market value” means  
22 the value of a multifamily real property for its cur-  
23 rent use, without taking into account any afford-  
24 ability requirements.

1           (8) The term “Secretary” means the Secretary  
2           of Housing and Urban Development.

3 **SEC. 4103. APPROPRIATED FUNDS REQUIREMENT FOR**  
4 **BELOW MARKET SALES.**

5           (a) DISCOUNT SALES.—Notwithstanding any other  
6 provision of law, except for affordability requirements for  
7 the elderly and disabled required by statute, disposition  
8 by the Secretary of a multifamily real property during fis-  
9 cal years 2006 through 2010 through a discount sale  
10 under sections 207(l) or 246 of the National Housing Act  
11 (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing  
12 and Community Development Amendments of 1978 (12  
13 U.S.C. 1701z-11), or section 204 of the Departments of  
14 Veterans Affairs and Housing and Urban Development,  
15 and Independent Agencies Appropriations Act, 1997 (12  
16 U.S.C. 1715z-11a), shall be subject to the availability of  
17 appropriations to the extent that the property value ex-  
18 ceeds the sale proceeds. If the multifamily real property  
19 is sold, during such fiscal years, for an amount equal to  
20 or greater than the property market value then the trans-  
21 action is not subject to the availability of appropriations.

22           (b) DISCOUNT LOAN SALES.—Notwithstanding any  
23 other provision of law and in accordance with the Federal  
24 Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a dis-  
25 count loan sale during fiscal years 2006 through 2010

1 under section 207(k) of the National Housing Act (12  
2 U.S.C. 1713(k)), section 203(k) of the Housing and Com-  
3 munity Development Amendments of 1978 (12 U.S.C.  
4 1701z-11(k)), or section 204(a) of the Departments of  
5 Veterans Affairs and Housing and Urban Development,  
6 and Independent Agencies Appropriations Act, 1997 (12  
7 U.S.C. 1715z-11a(a)), shall be subject to the availability  
8 of appropriations to the extent that the loan value exceeds  
9 the sale proceeds. If the multifamily loan is sold, during  
10 such fiscal years, for an amount equal to or greater than  
11 the loan market value then the transaction is not subject  
12 to the availability of appropriations.

13 (c) APPLICABILITY.—This section shall not apply to  
14 any transaction that formally commences within one year  
15 prior to the enactment of this section.

16 **SEC. 4104. UP-FRONT GRANTS.**

17 (a) 1997 Act.—Section 204(a) of the Departments  
18 of Veterans Affairs and Housing And Urban Development,  
19 and Independent Agencies Appropriations Act, 1997 (12  
20 U.S.C. 1715z-11a(a)) is amended by adding at the end  
21 the following new sentence: “A grant provided under this  
22 subsection during fiscal years 2006 through 2010 shall be  
23 available only to the extent that appropriations are made  
24 in advance for such purposes and shall not be derived from  
25 the General Insurance Fund.”.

1 (b) 1978 Act.—Section 203(f)(4) of the Housing and  
 2 Community Development Amendments of 1978 (12 USC  
 3 1701z-11(f)(4)) is amended by adding at the end the fol-  
 4 lowing new sentence: “This paragraph shall be effective  
 5 during fiscal years 2006 through 2010 only to the extent  
 6 that such budget authority is made available for use under  
 7 this paragraph in advance in appropriation Acts.”.

8 (c) APPLICABILITY.—The amendments made by this  
 9 section shall not apply to any transaction that formally  
 10 commences within one year prior to the enactment of this  
 11 section.

## 12 **TITLE V—COMMITTEE ON** 13 **JUDICIARY**

### 14 **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.



1 described in section 101(a)(15)(L) or to extend for the  
2 first time the stay of an alien having such status.

3 “(C) The amount of the fee imposed under subpara-  
4 graph (A) or (B) shall be \$1,500.

5 “(D) The fees imposed under subparagraphs (A) and  
6 (B) shall only apply to principal aliens and not to spouses  
7 or children who are accompanying or following to join such  
8 principal aliens.

9 “(E) Fees collected under this paragraph shall be de-  
10 posited as offsetting receipts in the Treasury, and shall  
11 not be available for expenditure until appropriated.

12 “(F)(i) An employer may not require an alien who  
13 is the beneficiary of the visa or petition for which a fee  
14 is imposed under this paragraph to reimburse, or other-  
15 wise compensate, the employer for part or all of the cost  
16 of such fee.

17 “(ii) Section 274A(g)(2) shall apply to a violation of  
18 clause (i) in the same manner as it applies to a violation  
19 of section 274A(g)(1).”.

## 20 **Subtitle B—Circuit and District** 21 **Judgeships**

### 22 **SEC. 5201. SHORT TITLE.**

23 This subtitle may be cited as the “Federal Judgeship  
24 Act of 2005”.

1 **SEC. 5202. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF**  
2 **APPEALS.**

3 (a) IN GENERAL.—The President shall appoint, by  
4 and with the advice and consent of the Senate—

5 (1) 1 additional circuit judge for the first cir-  
6 cuit court of appeals;

7 (2) 2 additional circuit judges for the second  
8 circuit court of appeals;

9 (3) 1 additional circuit judge for the sixth cir-  
10 cuit court of appeals; and

11 (4) 5 additional circuit judges for the ninth cir-  
12 cuit court of appeals, whose official duty station  
13 shall be in California.

14 (b) TEMPORARY JUDGESHIPS.—

15 (1) IN GENERAL.—The President shall appoint,  
16 by and with the advice and consent of the Senate—

17 (A) 1 additional circuit judge for the  
18 eighth circuit court of appeals; and

19 (B) 2 additional circuit judges for the  
20 ninth circuit court of appeals, whose official  
21 duty station shall be in California.

22 (2) VACANCIES.—

23 (A) EIGHTH CIRCUIT.—The first vacancy  
24 in the office of circuit judge in the eighth cir-  
25 cuit court of appeals, occurring 10 years or  
26 more after the confirmation date of the judge

1            named to fill the circuit judgeship created in  
 2            that circuit by paragraph (1)(A) shall not be  
 3            filled.

4            (B) NINTH CIRCUIT.—The first 2 vacan-  
 5            cies in the office of circuit judge in the ninth  
 6            circuit court of appeals, occurring 10 years or  
 7            more after judges are first confirmed to fill  
 8            both temporary circuit judgeships created by  
 9            paragraph (1)(B) shall not be filled.

10          (c) TABLE OF JUDGESHIPS.—In order that the table  
 11          contained in section 44 of title 28, United States Code,  
 12          will, with respect to each judicial circuit, reflect the  
 13          changes in the total number of permanent circuit judge-  
 14          ships authorized under subsection (a) of this section, such  
 15          table is amended to read as follows:

<b>“Circuits</b>	<b>Number of Judges</b>
District of Columbia .....	12
First .....	7
Second .....	15
Third .....	14
Fourth .....	15
Fifth .....	17
Sixth .....	17
Seventh .....	11
Eighth .....	11
Ninth .....	33
Tenth .....	12
Eleventh .....	12
Federal .....	12.”.

16 **SEC. 5203. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

17          (a) IN GENERAL.—The President shall appoint, by  
 18          and with the advice and consent of the Senate—

1           (1) 1 additional district judge for the northern  
2 district of Alabama;

3           (2) 4 additional district judges for the district  
4 of Arizona;

5           (3) 3 additional district judges for the northern  
6 district of California;

7           (4) 4 additional district judges for the eastern  
8 district of California;

9           (5) 4 additional district judges for the central  
10 district of California;

11          (6) 1 additional district judge for the southern  
12 district of California;

13          (7) 1 additional district judge for the district of  
14 Colorado;

15          (8) 4 additional district judges for the middle  
16 district of Florida;

17          (9) 3 additional district judges for the southern  
18 district of Florida;

19          (10) 1 additional district judge for the district  
20 of Idaho;

21          (11) 1 additional district judge for the northern  
22 district of Illinois;

23          (12) 1 additional district judge for the southern  
24 district of Indiana;

1           (13) 1 additional district judge for the western  
2 district of Missouri;

3           (14) 1 additional district judge for the district  
4 of Nebraska;

5           (15) 1 additional district judge for the district  
6 of Nevada;

7           (16) 1 additional district judge for the district  
8 of New Mexico;

9           (17) 3 additional district judges for the eastern  
10 district of New York;

11           (18) 1 additional district judge for the western  
12 district of New York;

13           (19) 1 additional district judge for the district  
14 of Oregon;

15           (20) 1 additional district judge for the district  
16 of South Carolina;

17           (21) 3 additional district judges for the south-  
18 ern district of Texas;

19           (22) 2 additional district judges for the eastern  
20 district of Virginia; and

21           (23) 1 additional district judge for the western  
22 district of Washington.

23           (b) TEMPORARY JUDGESHIPS.—

24           (1) IN GENERAL.—The President shall appoint,  
25 by and with the advice and consent of the Senate—

1 (A) 1 additional district judge for the mid-  
2 dle district of Alabama;

3 (B) 1 additional district judge for the dis-  
4 trict of Arizona;

5 (C) 1 additional district judge for the  
6 northern district of California;

7 (D) 1 additional district judge for the dis-  
8 trict of Colorado;

9 (E) 1 additional district judge for the mid-  
10 dle district of Florida;

11 (F) 1 additional district judge for the  
12 northern district of Iowa;

13 (G) 1 additional district judge for the dis-  
14 trict of Minnesota;

15 (H) 1 additional district judge for the dis-  
16 trict of New Jersey;

17 (I) 1 additional district judge for the dis-  
18 trict of New Mexico;

19 (J) 1 additional district judge for the  
20 southern district of Ohio;

21 (K) 1 additional district judge for the dis-  
22 trict of Oregon; and

23 (L) 1 additional district judge for the dis-  
24 trict of Utah.

1           (2) VACANCIES NOT FILLED.—The first va-  
2           cancy in the office of district judge in each of the  
3           judicial districts named in paragraph (1) occurring  
4           10 years or more after the confirmation date of the  
5           judge named to fill the district judgeship created in  
6           that district by paragraph (1) shall not be filled.

7           (c) EXISTING JUDGESHIPS.—

8           (1) PERMANENT JUDGESHIPS.—The existing  
9           judgeships for the district of Hawaii, the district of  
10          Kansas, and the eastern district of Missouri author-  
11          ized by section 203(c) of the Judicial Improvements  
12          Act of 1990 (Public Law 101–650; 28 U.S.C. 133  
13          note) shall, as of the effective date of this Act, be  
14          authorized under section 133 of title 28, United  
15          States Code, and the incumbents in those offices  
16          shall hold the office under section 133 of title 28,  
17          United States Code, as amended by this Act.

18          (2) EXTENSION OF TEMPORARY JUDGESHIP.—  
19          Section 203(c) of the Judicial Improvements Act of  
20          1990 (Public Law 101–650; 28 U.S.C. 133 note) is  
21          amended in the fifth sentence (relating to the north-  
22          ern district of Ohio) by striking “15 years” and in-  
23          serting “20 years”.

24          (d) TABLE OF JUDGESHIPS.—In order that the table  
25          contained in section 133(a) of title 28, United States

1 Code, will, with respect to each judicial district, reflect the  
 2 changes in the total number of permanent district judge-  
 3 ships authorized under subsections (a) and (c) of this sec-  
 4 tion, such table is amended to read as follows:

<b>“Districts</b>	<b>Judges</b>
“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
“Pennsylvania:	
“Eastern .....	22
“Middle .....	6
“Western .....	10
“Puerto Rico .....	7
“Rhode Island .....	3
“South Carolina .....	11
“South Dakota .....	3
“Tennessee:	
“Eastern .....	5
“Middle .....	4
“Western .....	5
“Texas:	
“Northern .....	12

“Southern .....	22
“Eastern .....	7
“Western .....	13
“Utah .....	5
“Vermont .....	2
“Virginia:	
“Eastern .....	13
“Western .....	4
“Washington:	
“Eastern .....	4
“Western .....	8
“West Virginia:	
“Northern .....	3
“Southern .....	5
“Wisconsin:	
“Eastern .....	5
“Western .....	2
“Wyoming .....	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  
6 section 126 the following new section:

7 **“§ 126A. Virgin Islands**

8 “The Virgin Islands constitutes 1 judicial district  
9 comprising 2 divisions.

10 “(1) The Saint Croix Division comprises the Is-  
11 land of Saint Croix and adjacent islands and cays.

12 “Court for the Saint Croix Division shall  
13 be held at Christiansted.

14 “(2) The Saint Thomas and Saint John Divi-  
15 sion comprises the Islands of Saint Thomas and  
16 Saint John and adjacent islands and cays.

1                   “Court for the Saint Thomas and Saint  
2                   John Division shall be held at Charlotte-  
3                   Amalie.”.

4                   (2) TECHNICAL AND CONFORMING AMEND-  
5                   MENT.—The table of contents for chapter 5 of title  
6                   28, United States Code, is amended by inserting  
7                   after the item relating to section 126 the following:  
                  “126A. Virgin Islands.”.

8                   (b) NUMBER OF JUDGES.—The table contained in  
9                   section 133(a) of title 28, United States Code, is amended  
10                  by inserting after the item relating to Vermont the fol-  
11                  lowing:

                  “Virgin Islands ..... 2”.

12                  (c) BANKRUPTCY JUDGES.—The table contained in  
13                  section 152(a)(2) of title 28, United States Code, is  
14                  amended by inserting after the item relating to Vermont  
15                  the following:

                  “Virgin Islands ..... 0”.

16                  (d) JUDICIAL CONFERENCES OF CIRCUITS.—Section  
17                  333 of title 28, United States Code, is amended in the  
18                  third sentence of the first undesignated paragraph—

19                   (1) by striking “, the District Court of the Vir-  
20                   gin Islands,”; and

21                   (2) by striking “to the conferences of their re-  
22                   spective circuits” and inserting “to the conference of  
23                   the ninth circuit”.

1 (e) JUDGES IN TERRITORIES AND POSSESSIONS.—

2 Section 373 of title 28, United States Code, is amended—

3 (1) in subsection (a), by striking “, the District  
4 Court of the Northern Mariana Islands, or the Dis-  
5 trict Court of the Virgin Islands” and inserting “or  
6 the District Court of the Northern Mariana Is-  
7 lands”; and

8 (2) in subsection (e), by striking “, the District  
9 Court of the Northern Mariana Islands, or the Dis-  
10 trict Court of the Virgin Islands” and inserting “or  
11 the District Court of the Northern Mariana Is-  
12 lands”.

13 (f) ANNUITIES FOR SURVIVORS OF CERTAIN JUDI-

14 CIAL OFFICIALS OF THE UNITED STATES.—Section

15 376(a) of title 28, United States Code, is amended—

16 (1) in paragraph (1)(B), by striking “, the Dis-  
17 trict Court of the Northern Mariana Islands, or the  
18 District Court of the Virgin Islands” and inserting  
19 “or the District Court of the Northern Mariana Is-  
20 lands”; and

21 (2) in paragraph (2)(B), by striking “, the Dis-  
22 trict Court of the Northern Mariana Islands, or the  
23 District Court of the Virgin Islands” and inserting  
24 “or the District Court of the Northern Mariana Is-  
25 lands”.

1 (g) AUTHORITY OF ATTORNEY GENERAL.—Section  
2 526(a)(2) of title 28, United States Code, is amended by  
3 striking “and of the district court of the Virgin Islands”.

4 (h) COURTS DEFINED.—Section 610 of title 28,  
5 United States Code, is amended—

6 (1) by striking “the United States District  
7 Court for the District of the Canal Zone,”; and

8 (2) by striking “the District Court of the Virgin  
9 Islands,”.

10 (i) UNITED STATES MAGISTRATE JUDGES.—Section  
11 631(a) of title 28, United States Code, is amended—

12 (1) in the first sentence, by striking “the Virgin  
13 Islands, Guam,” and inserting “Guam”; and

14 (2) in the second sentence, by striking “the Vir-  
15 gin Islands, Guam,” and inserting “Guam”.

16 (j) COURT REPORTERS.—Section 753(a) of title 28,  
17 United States Code, is amended by striking “, the United  
18 States District Court for the District of the Canal Zone,  
19 the District Court of Guam, and the District Court of the  
20 Virgin Islands” and inserting “and the District Court of  
21 Guam”.

22 (k) FINAL DECISIONS OF DISTRICT COURTS.—Sec-  
23 tion 1291 of title 28, United States Code, is amended by  
24 striking “, the United States District Court for the Dis-  
25 trict of the Canal Zone, the District Court of Guam, and

1 the District Court of the Virgin Islands,” and inserting  
2 “and the District Court of Guam,”.

3 (l) INTERLOCUTORY DECISIONS.—Section 1292 of  
4 title 28, United States Code, is amended—

5 (1) in subsection (a), by striking “, the United  
6 States District Court for the District of the Canal  
7 Zone, the District Court of Guam, and the District  
8 Court of the Virgin Islands,” and inserting “and the  
9 District Court of Guam,”; and

10 (2) in subsection (d)(4)(A), by striking “the  
11 District Court of the Virgin Islands,”.

12 (m) JURISDICTION OF THE UNITED STATES COURT  
13 OF APPEALS FOR THE FEDERAL CIRCUIT.—Section  
14 1295(a) of title 28, United States Code, is amended in  
15 paragraphs (1) and (2)—

16 (1) by striking “the United States District  
17 Court for the District of the Canal Zone,”; and

18 (2) by striking “the District Court of the Virgin  
19 Islands,”.

20 (n) UNITED STATES AS DEFENDANT.—Section  
21 1346(b)(1) of title 28, United States Code, is amended  
22 by striking “, together with the United States District  
23 Court for the District of the Canal Zone and the District  
24 Court of the Virgin Islands,”.

1           (o) ADEQUATE REPRESENTATION OF DEFEND-  
2 ANTS.—Section 3006A(j) of title 18, United States Code,  
3 is amended by striking “the District Court of the Virgin  
4 Islands,”.

5           (p) SAVINGS PROVISIONS.—

6           (1) TENURE OF INCUMBENT JUDGES.—A judge  
7 of the District Court of the Virgin Islands in office  
8 on the effective date of this section shall continue in  
9 office until the expiration of the term for which the  
10 judge was appointed, or until the judge dies, resigns,  
11 or is removed from office, whichever occurs first.  
12 When a vacancy occurs on the court on or after the  
13 effective date of this section, the President, in ac-  
14 cordance with section 133(a) of title 28, United  
15 States Code, shall appoint, by and with the advice  
16 and consent of the Senate, a district judge for the  
17 District of the Virgin Islands.

18           (2) RETIREMENT RIGHTS AND BENEFITS.—The  
19 amendments made by this section shall not affect  
20 the rights under sections 373 and 376 of title 28,  
21 United States Code, of any judge of the District  
22 Court of the Virgin Islands who retires on or before  
23 the effective date of this section or who continues in  
24 office after that date under paragraph (1) of this  
25 subsection. Service as a judge of the District Court

1 of the Virgin Islands appointed under section 24 of  
2 the Revised Organic Act of the Virgin Islands (48  
3 U.S.C. 1614) shall be included in calculating service  
4 under sections 371 and 372 of title 28, United  
5 States Code, and shall not be counted for purposes  
6 of section 373 of that title, if the judge is re-  
7 appointed, after the effective date of this section,  
8 under section 133(a) of title 28, United States Code,  
9 as district judge for the District of the Virgin Is-  
10 lands.

11 (q) AMENDMENTS TO REVISED ORGANIC ACT OF  
12 THE VIRGIN ISLANDS.—

13 (1) REPEALS.—Sections 24, 25, 26, and 27 of  
14 the Revised Organic Act of the Virgin Islands (48  
15 U.S.C. 1614, 1615, 1616 and 1617) are repealed.

16 (2) RIGHTS AND PROHIBITIONS.—Section 3 of  
17 the Revised Organic Act of the Virgin Islands (48  
18 U.S.C. 1561) is amended in the 23d undesignated  
19 paragraph—

20 (A) by inserting “article III;” after “sec-  
21 tion 9, clauses 2 and 3;” and

22 (B) by striking “That all offenses against  
23 the laws of the United States” and all that fol-  
24 lows through “section 22(b) of this Act or” and

1           inserting “That all offenses against the laws of  
2           the Virgin Islands which are prosecuted”.

3           (3) JURISDICTION.—Section 21 of the Revised  
4           Organic Act of the Virgin Islands (48 U.S.C. 1611)  
5           is amended to read as follows:

6   **“SEC. 21. JURISDICTION OF THE COURTS OF THE VIRGIN**  
7                           **ISLANDS.**

8           “(a) JURISDICTION OF THE COURTS OF THE VIRGIN  
9 ISLANDS.—The judicial power of the Virgin Islands shall  
10 be vested in such trial and appellate courts as may have  
11 been or may hereafter be established by local law. The  
12 local courts of the Virgin Islands shall have jurisdiction  
13 over all causes of action in the Virgin Islands over which  
14 any court established by the Constitution and laws of the  
15 United States does not have exclusive jurisdiction.

16           “(b) PRACTICE AND PROCEDURE.—The rules gov-  
17 erning the practice and procedure of the courts established  
18 by local law and those prescribing the qualifications and  
19 duties of the judges and officers thereof, oaths and bonds,  
20 and the times and places of holding court shall be gov-  
21 erned by local law or the rules promulgated by those  
22 courts.”.

23           (4) INCOME TAX MATTERS.—Section 22 of the  
24           Revised Organic Act of the Virgin Islands (48  
25           U.S.C. 1612) is amended to read as follows:

1 **“SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.**

2 “The United States District Court for the District  
3 of the Virgin Islands shall have exclusive jurisdiction over  
4 all criminal and civil proceedings in the Virgin Islands  
5 with respect to the income tax laws applicable to the Vir-  
6 gin Islands, except the ancillary laws relating to the in-  
7 come tax enacted by the legislature of the Virgin Islands.  
8 Any act or failure to act with respect to the income tax  
9 laws applicable to the Virgin Islands which would con-  
10 stitute a criminal offense described in chapter 75 of sub-  
11 title F of the Internal Revenue Code of 1986 shall con-  
12 stitute an offense against the Government of the Virgin  
13 Islands and may be prosecuted in the name of the Govern-  
14 ment of the Virgin Islands by the appropriate officers  
15 thereof in the United States District Court for the District  
16 of the Virgin Islands without the request or consent of  
17 the United States attorney for the Virgin Islands.”.

18 (5) APPELLATE JURISDICTION.—Section 23A of  
19 the Revised Organic Act of the Virgin Islands (48  
20 U.S.C. 1613a) is amended—

21 (A) by striking “District Court of the Vir-  
22 gin Islands” each place it appears and inserting  
23 “United States District Court for the District  
24 of the Virgin Islands”; and

25 (B) in subsection (b), by striking “pursu-  
26 ant to section 24(a) of this Act: *Provided*, That

1 no more than one of them may be a judge of  
2 a court established by local law.” and inserting  
3 “pursuant to chapter 13 of title 28, United  
4 States Code, or a recalled senior judge of the  
5 former District Court of the Virgin Islands.  
6 The chief judge of the United States Court of  
7 Appeals for the Third Circuit may assign to the  
8 appellate division a judge of a court of record  
9 of the Virgin Islands, except that no more than  
10 1 of the judges sitting in the appellate division  
11 at any session may be a judge of a court estab-  
12 lished by local law.”.

13 (r) ADDITIONAL REFERENCES.—Any reference in  
14 any provision of law to the “District Court of the Virgin  
15 Islands” shall, on and after the effective date of this sec-  
16 tion, be deemed to be a reference to the United States  
17 District Court for the District of the Virgin Islands.

18 (s) EFFECTIVE DATE.—This section and the amend-  
19 ments made by this section shall take effect at the end  
20 of the 90-day period beginning on the date of the enact-  
21 ment of this Act. Any complaint or proceeding pending  
22 in the District Court of the Virgin Islands on the effective  
23 date of this section may be pursued to final determination  
24 in the United States District Court for the District of the  
25 Virgin Islands, the United States Court of Appeals for the

1 Third Circuit, the United States Court of Appeals for the  
2 Federal Circuit, and the Supreme Court of the United  
3 States.

4 **SEC. 5205. EFFECTIVE DATE.**

5 Except as provided in section 5204(s), this subtitle  
6 and the amendments made by this subtitle shall take effect  
7 on the date of the enactment of this Act.

8 **Subtitle C—Bankruptcy**  
9 **Judgeships**

10 **SEC. 5301. SHORT TITLE.**

11 This subtitle may be cited as the “Enhanced Bank-  
12 ruptcy Judgeship Act of 2005”.

13 **SEC. 5302. AUTHORIZATION FOR ADDITIONAL BANK-**  
14 **RUPTCY JUDGESHIPS.**

15 The following judgeships shall be filled in the manner  
16 prescribed in section 152(a)(1) of title 28, United States  
17 Code, for the appointment of bankruptcy judges provided  
18 for in section 152(a)(2) of such title:

19 (1) 1 additional bankruptcy judgeship for the  
20 eastern and western districts of Arkansas.

21 (2) 1 additional bankruptcy judgeship for the  
22 eastern district of California.

23 (3) 2 additional bankruptcy judgeships for the  
24 middle district of Florida.

1           (4) 2 additional bankruptcy judgeships for the  
2 northern district of Georgia.

3           (5) 1 additional bankruptcy judgeship for the  
4 southern district of Georgia.

5           (6) 1 additional bankruptcy judgeship for the  
6 eastern district of Kentucky.

7           (7) 1 additional bankruptcy judgeship for the  
8 district of Maryland.

9           (8) 3 additional bankruptcy judgeships for the  
10 eastern district of Michigan.

11           (9) 1 additional bankruptcy judgeship for the  
12 southern district of New York.

13           (10) 1 additional bankruptcy judgeship for the  
14 western district of Pennsylvania.

15           (11) 1 additional bankruptcy judgeship for the  
16 western district of Tennessee.

17           (12) 1 additional bankruptcy judgeship for the  
18 eastern district of Texas.

19           (13) 1 additional bankruptcy judgeship for the  
20 district of Utah.

21 **SEC. 5303. TEMPORARY BANKRUPTCY JUDGESHIPS.**

22           (a) AUTHORIZATION FOR ADDITIONAL TEMPORARY  
23 BANKRUPTCY JUDGESHIPS.—The following judgeships  
24 shall be filled in the manner prescribed in section  
25 152(a)(1) of title 28, United States Code, for the appoint-

1 ment of bankruptcy judges provided for in section  
2 152(a)(2) of such title:

3 (1) 1 additional bankruptcy judgeship for the  
4 northern district of Florida.

5 (2) 2 additional bankruptcy judgeships for the  
6 middle district of Florida.

7 (3) 1 additional bankruptcy judgeship for the  
8 northern district of Indiana.

9 (4) 1 additional bankruptcy judgeship for the  
10 northern district of Mississippi.

11 (5) 1 additional bankruptcy judgeship for the  
12 district of Nevada.

13 (6) 1 additional bankruptcy judgeship for the  
14 western district of North Carolina.

15 (7) 1 additional bankruptcy judgeship for the  
16 southern district of Ohio.

17 (b) VACANCIES.—

18 (1) DISTRICTS WITH SINGLE APPOINTMENTS.—

19 Except as provided in paragraph (2), the first va-  
20 cancy occurring in the office of bankruptcy judge in  
21 each of the judicial districts set forth in subsection

22 (a)—

23 (A) occurring 5 years or more after the ap-  
24 pointment date of the bankruptcy judge ap-  
25 pointed under subsection (a) to such office, and

1 (B) resulting from the death, retirement,  
2 resignation, or removal of a bankruptcy judge,  
3 shall not be filled.

4 (2) MIDDLE DISTRICT OF FLORIDA.—The 1st  
5 and 2d vacancies in the office of bankruptcy judge  
6 in the middle district of Florida—

7 (A) occurring 5 years or more after the re-  
8 spective 1st and 2d appointment dates of the  
9 bankruptcy judges appointed under subsection  
10 (a)(2), and

11 (B) resulting from the death, retirement,  
12 resignation, or removal of a bankruptcy judge,  
13 shall not be filled.

14 (c) ELIGIBILITY FOR SUBSEQUENT APPOINT-  
15 MENTS.—A judge holding office in any of the districts  
16 enumerated in subsection (a) shall, at the expiration of  
17 the term of the judge (other than by reason of paragraph  
18 (1)(B) or (2)(B) of subsection (b)), be eligible for re-  
19 appointment as a bankruptcy judge in that district.

20 **SEC. 5304. CONVERSION OF EXISTING TEMPORARY BANK-**  
21 **RUPTCY JUDGESHIPS.**

22 (a) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 102-  
23 361.—The following temporary bankruptcy judgeships au-  
24 thorized by the following paragraphs of section 3(a) of  
25 Public Law 102-361, as amended by section 307 of Public

1 Law 104–317 (28 U.S.C. 152 note), are converted to per-  
2 manent bankruptcy judgeships under section 152(a)(2) of  
3 title 28, United States Code:

4 (1) The temporary bankruptcy judgeship for  
5 the district of Delaware authorized by paragraph  
6 (3).

7 (2) The temporary bankruptcy judgeship for  
8 the southern district of Illinois authorized by para-  
9 graph (4).

10 (3) The temporary bankruptcy judgeship for  
11 the district of Puerto Rico authorized by paragraph  
12 (7).

13 (b) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 109–  
14 8.—The following temporary bankruptcy judgeships au-  
15 thorized by the following subparagraphs of section  
16 1223(b)(1) of the Bankruptcy Abuse Prevention and Con-  
17 sumer Protection Act of 2005 (Public Law 109–8), are  
18 converted to permanent bankruptcy judgeships under sec-  
19 tion 152(a)(2) of title 28, United States Code:

20 (1) The 4 temporary bankruptcy judgeships for  
21 the district of Delaware authorized by subparagraph  
22 (C).

23 (2) The temporary bankruptcy judgeship for  
24 the southern district of Georgia authorized by sub-  
25 paragraph (E).

1           (3) One of the 3 temporary bankruptcy judge-  
2           ships for the district of Maryland authorized by sub-  
3           paragraph (F).

4           (4) The temporary bankruptcy judgeship for  
5           the eastern district of Michigan authorized by sub-  
6           paragraph (G).

7           (5) The temporary bankruptcy judgeship for  
8           the district of New Jersey authorized by subpara-  
9           graph (I).

10          (6) The temporary bankruptcy judgeship for  
11          the northern district of New York authorized by sub-  
12          paragraph (K).

13          (7) The temporary bankruptcy judgeship for  
14          the southern district of New York authorized by sub-  
15          paragraph (L).

16          (8) The temporary bankruptcy judgeship for  
17          the eastern district of North Carolina authorized by  
18          subparagraph (M).

19          (9) The temporary bankruptcy judgeship for  
20          the eastern district of Pennsylvania authorized by  
21          subparagraph (N).

22          (10) The temporary bankruptcy judgeship for  
23          the district of South Carolina authorized by sub-  
24          paragraph (S).

1           (11) The temporary bankruptcy judgeship for  
2           the western district of Tennessee authorized by sub-  
3           paragraph (Q).

4 **SEC. 5305. GENERAL PROVISIONS.**

5           (a) TABLE OF JUDGESHIPS.—In order that the table  
6 contained in section 152(a)(2) of title 28, United States  
7 Code, will, with respect to each judicial district, reflect the  
8 changes in the total number of bankruptcy judgeships au-  
9 thorized under sections 5302 and 5304, such table is  
10 amended to read as follows:

<b>“Districts</b>	<b>Judges</b>
“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  
2 Congress that bankruptcy judges in the eastern district  
3 of California should conduct bankruptcy proceedings on  
4 a daily 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  
9           “former ninth circuit” means the ninth judicial cir-  
10          cuit of the United States as in existence on the day  
11          before the effective date of this subtitle.

12                   (2) **NEW NINTH CIRCUIT.**—The term “new  
13          ninth circuit” means the ninth judicial circuit of the  
14          United States established by the amendment made  
15          by 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 sec-  
19          tion 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 strik-  
24          ing “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,  
 8 United States Code, as amended by section 5202(c) of this  
 9 Act, is further amended—

10 (1) by striking the item relating to the ninth  
 11 circuit 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,  
 17 United States Code, is amended—

18 (1) by striking the item relating to the ninth  
 19 circuit and inserting the following:

“Ninth ..... Honolulu, Pasadena, San Fran-  
 cisco.”;

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  
5 is in regular active service and whose official duty station  
6 on 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  
16 subtitle may elect to be assigned to the new ninth circuit  
17 or the twelfth circuit as of such effective date and shall  
18 notify the Director of the Administrative Office of the  
19 United 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  
24          5407,

1 shall run from the date of commission of such judge as  
2 a 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  
10 the same manner and with the same effect as if this  
11 subtitle had not been enacted.

12 (2) If the matter has not been submitted for de-  
13 cision, the appeal or proceeding, together with the  
14 original papers, printed records, and record entries  
15 duly certified, shall, by appropriate orders, be trans-  
16 ferred to the court to which the matter would have  
17 been submitted had this subtitle been in full force  
18 and effect at the time such appeal was taken or  
19 other proceeding commenced, and further pro-  
20 ceedings with respect to the case shall be had in the  
21 same manner and with the same effect as if the ap-  
22 peal or other proceeding had been filed in such  
23 court.

24 (3) If a petition for rehearing en banc is pend-  
25 ing on or after the effective date of this subtitle, the

1 petition shall be considered by the court of appeals  
2 to which it would have been submitted had this sub-  
3 title been in full force and effect at the time that the  
4 appeal or other proceeding was filed with the court  
5 of appeals.

6 **SEC. 5410. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**  
7 **AMONG CIRCUITS.**

8 Section 291 of title 28, United States Code, is  
9 amended by adding at the end the following:

10 “(c) The chief judge of the Ninth Circuit may, in the  
11 public interest and upon request by the chief judge of the  
12 Twelfth Circuit, designate and assign temporarily any cir-  
13 cuit judge of the Ninth Circuit to act as circuit judge in  
14 the Twelfth Circuit.

15 “(d) The chief judge of the Twelfth Circuit may, in  
16 the public interest and upon request by the chief judge  
17 of the Ninth Circuit, designate and assign temporarily any  
18 circuit judge of the Twelfth Circuit to act as circuit judge  
19 in the Ninth Circuit.”.

20 **SEC. 5411. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**  
21 **AMONG CIRCUITS.**

22 Section 292 of title 28, United States Code, is  
23 amended by adding at the end the following:

24 “(f) The chief judge of the United States Court of  
25 Appeals 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 divi-  
5 sion thereof, whenever the business of that court so  
6 requires; 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  
11 Appeals for the Twelfth Circuit may in the public inter-  
12 est—

13           “(1) upon request by the chief judge of the  
14 Ninth Circuit, designate and assign 1 or more dis-  
15 trict judges within the Twelfth Circuit to sit upon  
16 the Court of Appeals of the Ninth Circuit, or a divi-  
17 sion thereof, whenever the business of that court so  
18 requires; and

19           “(2) designate and assign temporarily any dis-  
20 trict judge within the Twelfth Circuit to hold a dis-  
21 trict court in any district within the Ninth Circuit.

22          “(h) Any designations or assignments under sub-  
23 section (f) or (g) shall be in conformity with the rules or  
24 orders of the court of appeals of, or the district within,

1 as applicable, the circuit to which the judge is designated  
2 or assigned.”.

3 **SEC. 5412. ADMINISTRATION.**

4 The court of appeals for the ninth circuit as con-  
5 stituted on the day before the effective date of this subtitle  
6 may take such administrative action as may be required  
7 to carry out this subtitle and the amendments made by  
8 this subtitle. Such court shall cease to exist for adminis-  
9 trative purposes 2 years after the date of the enactment  
10 of this Act.

11 **SEC. 5413. EFFECTIVE DATE.**

12 This subtitle and the amendments made by this sub-  
13 title shall take effect no later than December 31, 2006.

14 **Subtitle E—Authorization of**  
15 **Appropriations**

16 **SEC. 5501. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated for each of  
18 fiscal years 2006 through 2009 such sums as are nec-  
19 essary to carry out subtitles B, C, and D of this title, in-  
20 cluding such sums as may be necessary to provide appro-  
21 priate space and facilities for the judicial positions created  
22 by this title. Funds appropriated pursuant to this section  
23 in any fiscal year shall remain available until expended.

1           **TITLE VI—COMMITTEE ON**  
 2                           **RESOURCES**

                          Subtitle A—Arctic Coastal Plain Domestic Energy

- Sec. 6101. Short title.
- Sec. 6102. Definitions.
- Sec. 6103. Leasing program for lands within the coastal plain.
- Sec. 6104. Lease sales.
- Sec. 6105. Grant of leases by the Secretary.
- Sec. 6106. Lease terms and conditions.
- Sec. 6107. Coastal Plain environmental protection.
- Sec. 6108. Expedited judicial review.
- Sec. 6109. Federal and State distribution of revenues.
- Sec. 6110. Rights-of-way across the Coastal Plain.
- Sec. 6111. Conveyance.
- Sec. 6112. Local government impact aid and community service assistance.

                          Subtitle B—Miscellaneous Amendments Relating to Mining

- Sec. 6201. Fees for recordation and location of mining claims.
- Sec. 6202. Patents for mining or mill site claims.
- Sec. 6203. Mineral examinations for mining on certain lands.
- Sec. 6204. Mineral development lands available for purchase.
- Sec. 6205. National mining and minerals policy to encourage and promote the  
   productive second use of lands.
- Sec. 6206. Regulations.
- Sec. 6207. Protection of national parks and wilderness areas.

                          Subtitle C—Disposal of Public Lands

                          CHAPTER 1—DISPOSAL OF CERTAIN PUBLIC LANDS IN NEVADA

- Sec. 6301. Short title.
- Sec. 6302. Definitions.
- Sec. 6303. Land conveyance.
- Sec. 6304. Disposition of proceeds.

                          CHAPTER 2—DISPOSAL OF CERTAIN PUBLIC LANDS IN IDAHO

- Sec. 6311. Short title.
- Sec. 6312. Definitions.
- Sec. 6313. Land conveyance.
- Sec. 6314. Disposition of proceeds.

                          Subtitle D—Oil shale

- Sec. 6401. Oil shale and tar sands amendments.

                          Subtitle E—Ocean Energy Resources

- Sec. 6501. Short title.
- Sec. 6502. Policy.
- Sec. 6503. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 6504. Determination of adjacent zones and planning areas.

- Sec. 6505. Administration of leasing.
- Sec. 6506. Grant of leases by Secretary.
- Sec. 6507. Disposition of receipts.
- Sec. 6508. Review of outer Continental Shelf exploration plans.
- Sec. 6509. Reservation of lands and rights.
- Sec. 6510. Outer Continental Shelf leasing program.
- Sec. 6511. Coordination with Adjacent States.
- Sec. 6512. Environmental studies.
- Sec. 6513. Review of outer Continental Shelf development and production plans.
- Sec. 6514. Federal Energy Natural Resources Enhancement Fund Act of 2005.
- Sec. 6515. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.
- Sec. 6516. Outer Continental Shelf incompatible use.
- Sec. 6517. Repurchase of certain leases.
- Sec. 6518. Offsite environmental mitigation.
- Sec. 6519. Amendments to the Mineral Leasing Act.
- Sec. 6520. Minerals Management Service.
- Sec. 6521. Authority to use decommissioned offshore oil and gas platforms and other facilities for mariculture, artificial reef, scientific research, or other uses.
- Sec. 6522. Repeal of requirement to conduct comprehensive inventory of OCS oil and natural gas resources.
- Sec. 6523. Mining and petroleum schools.
- Sec. 6524. Onshore and offshore mineral lease fees.
- Sec. 6525. Atlantic and Pacific OCS Region headquarters.
- Sec. 6526. National Geologic Data and Mapping Fund Act of 2005.
- Sec. 6527. Leases for areas located within 100 miles of California or Florida.

Subtitle F—Sale and Conveyance of Federal Land

- Sec. 6601. Collection of receipts from the sale of Federal lands.

1       **Subtitle A—Arctic Coastal Plain**  
 2                               **Domestic Energy**

3       **SEC. 6101. SHORT TITLE.**

4               This subtitle may be cited as the “Arctic Coastal  
 5 Plain Domestic Energy Security Act of 2005”.

6       **SEC. 6102. DEFINITIONS.**

7               In this subtitle:

8                       (1) **COASTAL PLAIN.**—The term “Coastal  
 9 Plain” means that area identified as such in the  
 10 map entitled “Arctic National Wildlife Refuge”,  
 11 dated October 21, 2005, comprising approximately

1 1,549,000 acres, and as described in appendix I to  
2 part 37 of title 50, Code of Federal Regulations.

3 (2) SECRETARY.—The term “Secretary”, except  
4 as otherwise provided, means the Secretary of the  
5 Interior or the Secretary’s designee.

6 **SEC. 6103. LEASING PROGRAM FOR LANDS WITHIN THE**  
7 **COASTAL PLAIN.**

8 (a) IN GENERAL.—The Secretary shall take such ac-  
9 tions as are necessary—

10 (1) to establish and implement, in accordance  
11 with this Act and acting through the Director of the  
12 Bureau of Land Management in consultation with  
13 the Director of the United States Fish and Wildlife  
14 Service, a competitive oil and gas leasing program  
15 under the Mineral Leasing Act (30 U.S.C. 181 et  
16 seq.) that will result in an environmentally sound  
17 program for the exploration, development, and pro-  
18 duction of the oil and gas resources of the Coastal  
19 Plain; and

20 (2) to administer the provisions of this subtitle  
21 through regulations, lease terms, conditions, restric-  
22 tions, prohibitions, stipulations, and other provisions  
23 that ensure the oil and gas exploration, development,  
24 and production activities on the Coastal Plain will  
25 result in no significant adverse effect on fish and

1 wildlife, their habitat, subsistence resources, and the  
2 environment, and including, in furtherance of this  
3 goal, by requiring the application of the best com-  
4 mercially available technology for oil and gas explo-  
5 ration, development, and production to all explo-  
6 ration, development, and production operations  
7 under this subtitle in a manner that ensures the re-  
8 ceipt of fair market value by the public for the min-  
9 eral resources to be leased.

10 (b) REPEAL.—Section 1003 of the Alaska National  
11 Interest Lands Conservation Act of 1980 (16 U.S.C.  
12 3143) is repealed.

13 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
14 TAIN OTHER LAWS.—

15 (1) COMPATIBILITY.—For purposes of the Na-  
16 tional Wildlife Refuge System Administration Act of  
17 1966, the oil and gas leasing program and activities  
18 authorized by this section in the Coastal Plain are  
19 deemed to be compatible with the purposes for which  
20 the Arctic National Wildlife Refuge was established,  
21 and that no further findings or decisions are re-  
22 quired to implement this determination.

23 (2) ADEQUACY OF THE DEPARTMENT OF THE  
24 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT  
25 STATEMENT.—The “Final Legislative Environ-

1       mental Impact Statement” (April 1987) on the  
2       Coastal Plain prepared pursuant to section 1002 of  
3       the Alaska National Interest Lands Conservation  
4       Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
5       of the National Environmental Policy Act of 1969  
6       (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
7       quirements under the National Environmental Policy  
8       Act of 1969 that apply with respect to prelease ac-  
9       tivities, including actions authorized to be taken by  
10      the Secretary to develop and promulgate the regula-  
11      tions for the establishment of a leasing program au-  
12      thorized by this subtitle before the conduct of the  
13      first lease sale.

14               (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
15      TIONS.—Before conducting the first lease sale under  
16      this subtitle, the Secretary shall prepare an environ-  
17      mental impact statement under the National Envi-  
18      ronmental Policy Act of 1969 with respect to the ac-  
19      tions authorized by this subtitle that are not re-  
20      ferred to in paragraph (2). Notwithstanding any  
21      other law, the Secretary is not required to identify  
22      nonleasing alternative courses of action or to analyze  
23      the environmental effects of such courses of action.  
24      The Secretary shall only identify a preferred action  
25      for such leasing and a single leasing alternative, and

1 analyze the environmental effects and potential miti-  
2 gation measures for those two alternatives. The  
3 identification of the preferred action and related  
4 analysis for the first lease sale under this subtitle  
5 shall be completed within 18 months after the date  
6 of enactment of this Act. The Secretary shall only  
7 consider public comments that specifically address  
8 the Secretary's preferred action and that are filed  
9 within 20 days after publication of an environmental  
10 analysis. Notwithstanding any other law, compliance  
11 with this paragraph is deemed to satisfy all require-  
12 ments for the analysis and consideration of the envi-  
13 ronmental effects of proposed leasing under this sub-  
14 title.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
16 ITY.—Nothing in this subtitle shall be considered to ex-  
17 pand or limit State and local regulatory authority.

18 (e) SPECIAL AREAS.—

19 (1) IN GENERAL.—The Secretary, after con-  
20 sultation with the State of Alaska, the city of  
21 Kaktovik, and the North Slope Borough, may des-  
22 ignate up to a total of 45,000 acres of the Coastal  
23 Plain as a Special Area if the Secretary determines  
24 that the Special Area is of such unique character  
25 and interest so as to require special management

1 and regulatory protection. The Secretary shall des-  
2 ignate as such a Special Area the Sadlerochit Spring  
3 area, comprising approximately 4,000 acres as de-  
4 picted on the map referred to in section 6102(1).

5 (2) MANAGEMENT.—Each such Special Area  
6 shall be managed so as to protect and preserve the  
7 area’s unique and diverse character including its  
8 fish, wildlife, and subsistence resource values.

9 (3) EXCLUSION FROM LEASING OR SURFACE  
10 OCCUPANCY.—The Secretary may exclude any Spe-  
11 cial Area from leasing. If the Secretary leases a Spe-  
12 cial Area, or any part thereof, for purposes of oil  
13 and gas exploration, development, production, and  
14 related activities, there shall be no surface occu-  
15 pancy of the lands comprising the Special Area.

16 (4) DIRECTIONAL DRILLING.—Notwithstanding  
17 the other provisions of this subsection, the Secretary  
18 may lease all or a portion of a Special Area under  
19 terms that permit the use of horizontal drilling tech-  
20 nology from sites on leases located outside the area.

21 (f) LIMITATION ON CLOSED AREAS.—The Sec-  
22 retary’s sole authority to close lands within the Coastal  
23 Plain to oil and gas leasing and to exploration, develop-  
24 ment, and production is that set forth in this subtitle.

25 (g) REGULATIONS.—

1           (1) IN GENERAL.—The Secretary shall pre-  
2       scribe such regulations as may be necessary to carry  
3       out this subtitle, including rules and regulations re-  
4       lating to protection of the fish and wildlife, their  
5       habitat, subsistence resources, and environment of  
6       the Coastal Plain, by no later than 15 months after  
7       the date of enactment of this Act.

8           (2) REVISION OF REGULATIONS.—The Sec-  
9       retary shall periodically review and, if appropriate,  
10      revise the rules and regulations issued under sub-  
11      section (a) to reflect any significant biological, envi-  
12      ronmental, or engineering data that come to the Sec-  
13      retary’s attention.

14 **SEC. 6104. LEASE SALES.**

15       (a) IN GENERAL.—Lands may be leased pursuant to  
16      this subtitle to any person qualified to obtain a lease for  
17      deposits of oil and gas under the Mineral Leasing Act (30  
18      U.S.C. 181 et seq.).

19       (b) PROCEDURES.—The Secretary shall, by regula-  
20      tion, establish procedures for—

21           (1) receipt and consideration of sealed nomina-  
22      tions for any area in the Coastal Plain for inclusion  
23      in, or exclusion (as provided in subsection (c)) from,  
24      a lease sale;

1           (2) the holding of lease sales after such nomina-  
2           tion process; and

3           (3) public notice of and comment on designa-  
4           tion of areas to be included in, or excluded from, a  
5           lease sale.

6           (c) LEASE SALE BIDS.—Bidding for leases under  
7           this subtitle shall be by sealed competitive cash bonus bids.

8           (d) ACREAGE MINIMUM IN FIRST SALE.—In the first  
9           lease sale under this subtitle, the Secretary shall offer for  
10          lease those tracts the Secretary considers to have the  
11          greatest potential for the discovery of hydrocarbons, tak-  
12          ing into consideration nominations received pursuant to  
13          subsection (b)(1), but in no case less than 200,000 acres.

14          (e) TIMING OF LEASE SALES.—The Secretary  
15          shall—

16                (1) conduct the first lease sale under this sub-  
17                title within 22 months after the date of the enact-  
18                ment of this Act; and

19                (2) conduct additional sales so long as sufficient  
20                interest in development exists to warrant, in the Sec-  
21                retary's judgment, the conduct of such sales.

22          **SEC. 6105. GRANT OF LEASES BY THE SECRETARY.**

23                (a) IN GENERAL.—The Secretary may grant to the  
24                highest responsible qualified bidder in a lease sale con-  
25                ducted pursuant to section 6104 any lands to be leased

1 on the Coastal Plain upon payment by the lessee of such  
2 bonus as may be accepted by the Secretary.

3 (b) SUBSEQUENT TRANSFERS.—No lease issued  
4 under this subtitle may be sold, exchanged, assigned, sub-  
5 let, or otherwise transferred except with the approval of  
6 the Secretary. Prior to any such approval the Secretary  
7 shall consult with, and give due consideration to the views  
8 of, the Attorney General.

9 **SEC. 6106. LEASE TERMS AND CONDITIONS.**

10 (a) IN GENERAL.—An oil or gas lease issued pursu-  
11 ant to this subtitle shall—

12 (1) provide for the payment of a royalty of not  
13 less than 12½ percent in amount or value of the  
14 production removed or sold from the lease, as deter-  
15 mined by the Secretary under the regulations appli-  
16 cable to other Federal oil and gas leases;

17 (2) provide that the Secretary may close, on a  
18 seasonal basis, portions of the Coastal Plain to ex-  
19 ploratory drilling activities as necessary to protect  
20 caribou calving areas and other species of fish and  
21 wildlife;

22 (3) require that the lessee of lands within the  
23 Coastal Plain shall be fully responsible and liable for  
24 the reclamation of lands within the Coastal Plain  
25 and any other Federal lands that are adversely af-

1        fected in connection with exploration, development,  
2        production, or transportation activities conducted  
3        under the lease and within the Coastal Plain by the  
4        lessee or by any of the subcontractors or agents of  
5        the lessee;

6            (4) provide that the lessee may not delegate or  
7        convey, by contract or otherwise, the reclamation re-  
8        sponsibility and liability to another person without  
9        the express written approval of the Secretary;

10           (5) provide that the standard of reclamation for  
11        lands required to be reclaimed under this subtitle  
12        shall be, as nearly as practicable, a condition capable  
13        of supporting the uses which the lands were capable  
14        of supporting prior to any exploration, development,  
15        or production activities, or upon application by the  
16        lessee, to a higher or better use as approved by the  
17        Secretary;

18           (6) contain terms and conditions relating to  
19        protection of fish and wildlife, their habitat, and the  
20        environment as required pursuant to section  
21        6103(a)(2);

22           (7) provide that the lessee, its agents, and its  
23        contractors use best efforts to provide a fair share,  
24        as determined by the level of obligation previously  
25        agreed to in the 1974 agreement implementing sec-

1       tion 29 of the Federal Agreement and Grant of  
2       Right of Way for the Operation of the Trans-Alaska  
3       Pipeline, of employment and contracting for Alaska  
4       Natives and Alaska Native Corporations from  
5       throughout the State;

6           (8) prohibit the export of oil produced under  
7       the lease; and

8           (9) contain such other provisions as the Sec-  
9       retary determines necessary to ensure compliance  
10      with the provisions of this subtitle and the regula-  
11      tions issued under this subtitle.

12      (b) PROJECT LABOR AGREEMENTS.—The Secretary,  
13      as a term and condition of each lease under this subtitle  
14      and in recognizing the Government's proprietary interest  
15      in labor stability and in the ability of construction labor  
16      and management to meet the particular needs and condi-  
17      tions of projects to be developed under the leases issued  
18      pursuant to this subtitle and the special concerns of the  
19      parties to such leases, shall require that the lessee and  
20      its agents and contractors negotiate to obtain a project  
21      labor agreement for the employment of laborers and me-  
22      chanics on production, maintenance, and construction  
23      under the lease.

1 **SEC. 6107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 The Secretary shall, consistent with the requirements of  
5 section 6103, administer the provisions of this subtitle  
6 through regulations, lease terms, conditions, restrictions,  
7 prohibitions, stipulations, and other provisions that—

8 (1) ensure the oil and gas exploration, develop-  
9 ment, and production activities on the Coastal Plain  
10 will result in no significant adverse effect on fish  
11 and wildlife, their habitat, and the environment;

12 (2) require the application of the best commer-  
13 cially available technology for oil and gas explo-  
14 ration, development, and production on all new ex-  
15 ploration, development, and production operations;  
16 and

17 (3) ensure that the maximum amount of sur-  
18 face acreage covered by production and support fa-  
19 cilities, including airstrips and any areas covered by  
20 gravel berms or piers for support of pipelines, does  
21 not exceed 2,000 acres on the Coastal Plain.

22 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

23 The Secretary shall also require, with respect to any pro-  
24 posed drilling and related activities, that—

25 (1) a site-specific analysis be made of the prob-  
26 able effects, if any, that the drilling or related activi-

1 ties will have on fish and wildlife, their habitat, and  
2 the environment;

3 (2) a plan be implemented to avoid, minimize,  
4 and mitigate (in that order and to the extent prac-  
5 ticable) any significant adverse effect identified  
6 under paragraph (1); and

7 (3) the development of the plan shall occur  
8 after consultation with the agency or agencies hav-  
9 ing jurisdiction over matters mitigated by the plan.

10 (c) REGULATIONS TO PROTECT COASTAL PLAIN  
11 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
12 AND THE ENVIRONMENT.—Before implementing the leas-  
13 ing program authorized by this subtitle, the Secretary  
14 shall prepare and promulgate regulations, lease terms,  
15 conditions, restrictions, prohibitions, stipulations, and  
16 other measures designed to ensure that the activities un-  
17 dertaken on the Coastal Plain under this subtitle are con-  
18 ducted in a manner consistent with the purposes and envi-  
19 ronmental requirements of this subtitle.

20 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
21 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
22 proposed regulations, lease terms, conditions, restrictions,  
23 prohibitions, and stipulations for the leasing program  
24 under this subtitle shall require compliance with all appli-

1 cable provisions of Federal and State environmental law  
2 and shall also require the following:

3           (1) Standards at least as effective as the safety  
4           and environmental mitigation measures set forth in  
5           items 1 through 29 at pages 167 through 169 of the  
6           “Final Legislative Environmental Impact State-  
7           ment” (April 1987) on the Coastal Plain.

8           (2) Seasonal limitations on exploration, develop-  
9           ment, and related activities, where necessary, to  
10          avoid significant adverse effects during periods of  
11          concentrated fish and wildlife breeding, denning,  
12          nesting, spawning, and migration.

13          (3) That exploration activities, except for sur-  
14          face geological studies, be limited to the period be-  
15          tween approximately November 1 and May 1 each  
16          year and that exploration activities shall be sup-  
17          ported, if necessary, by ice roads, winter trails with  
18          adequate snow cover, ice pads, ice airstrips, and air  
19          transport methods, except that such exploration ac-  
20          tivities may occur at other times, if the Secretary  
21          finds that such exploration will have no significant  
22          adverse effect on the fish and wildlife, their habitat,  
23          and the environment of the Coastal Plain.

1           (4) Design safety and construction standards  
2 for all pipelines and any access and service roads,  
3 that—

4                   (A) minimize, to the maximum extent pos-  
5 sible, adverse effects upon the passage of mi-  
6 gratory species such as caribou; and

7                   (B) minimize adverse effects upon the flow  
8 of surface water by requiring the use of cul-  
9 verts, bridges, and other structural devices.

10           (5) Prohibitions on general public access and  
11 use on all pipeline access and service roads.

12           (6) Stringent reclamation and rehabilitation re-  
13 quirements, consistent with the standards set forth  
14 in this subtitle, requiring the removal from the  
15 Coastal Plain of all oil and gas development and  
16 production facilities, structures, and equipment upon  
17 completion of oil and gas production operations, ex-  
18 cept that the Secretary may exempt from the re-  
19 quirements of this paragraph those facilities, struc-  
20 tures, or equipment that the Secretary determines  
21 would assist in the management of the Arctic Na-  
22 tional Wildlife Refuge and that are donated to the  
23 United States for that purpose.

24           (7) Appropriate prohibitions or restrictions on  
25 access by all modes of transportation.

1           (8) Appropriate prohibitions or restrictions on  
2 sand and gravel extraction.

3           (9) Consolidation of facility siting.

4           (10) Appropriate prohibitions or restrictions on  
5 use of explosives.

6           (11) Avoidance, to the extent practicable, of  
7 springs, streams, and river system; the protection of  
8 natural surface drainage patterns, wetlands, and ri-  
9 parian habitats; and the regulation of methods or  
10 techniques for developing or transporting adequate  
11 supplies of water for exploratory drilling.

12           (12) Avoidance or reduction of air traffic-re-  
13 lated disturbance to fish and wildlife.

14           (13) Treatment and disposal of hazardous and  
15 toxic wastes, solid wastes, reserve pit fluids, drilling  
16 muds and cuttings, and domestic wastewater, includ-  
17 ing an annual waste management report, a haz-  
18 ardous materials tracking system, and a prohibition  
19 on chlorinated solvents, in accordance with applica-  
20 ble Federal and State environmental law.

21           (14) Fuel storage and oil spill contingency plan-  
22 ning.

23           (15) Research, monitoring, and reporting re-  
24 quirements.

25           (16) Field crew environmental briefings.

1           (17) Avoidance of significant adverse effects  
2 upon subsistence hunting, fishing, and trapping by  
3 subsistence users.

4           (18) Compliance with applicable air and water  
5 quality standards.

6           (19) Appropriate seasonal and safety zone des-  
7 ignations around well sites, within which subsistence  
8 hunting and trapping shall be limited.

9           (20) Reasonable stipulations for protection of  
10 cultural and archeological resources.

11           (21) All other protective environmental stipula-  
12 tions, restrictions, terms, and conditions deemed  
13 necessary by the Secretary.

14       (e) CONSIDERATIONS.—In preparing and promul-  
15 gating regulations, lease terms, conditions, restrictions,  
16 prohibitions, and stipulations under this section, the Sec-  
17 retary shall consider the following:

18           (1) The stipulations and conditions that govern  
19 the National Petroleum Reserve-Alaska leasing pro-  
20 gram, as set forth in the 1999 Northeast National  
21 Petroleum Reserve-Alaska Final Integrated Activity  
22 Plan/Environmental Impact Statement.

23           (2) The environmental protection standards  
24 that governed the initial Coastal Plain seismic explo-

1 ration program under parts 37.31 to 37.33 of title  
2 50, Code of Federal Regulations.

3 (3) The land use stipulations for exploratory  
4 drilling on the KIC-ASRC private lands that are set  
5 forth in Appendix 2 of the August 9, 1983, agree-  
6 ment between Arctic Slope Regional Corporation and  
7 the United States.

8 (f) FACILITY CONSOLIDATION PLANNING.—

9 (1) IN GENERAL.—The Secretary shall, after  
10 providing for public notice and comment, prepare  
11 and update periodically a plan to govern, guide, and  
12 direct the siting and construction of facilities for the  
13 exploration, development, production, and transpor-  
14 tation of Coastal Plain oil and gas resources.

15 (2) OBJECTIVES.—The plan shall have the fol-  
16 lowing objectives:

17 (A) Avoiding unnecessary duplication of fa-  
18 cilities and activities.

19 (B) Encouraging consolidation of common  
20 facilities and activities.

21 (C) Locating or confining facilities and ac-  
22 tivities to areas that will minimize impact on  
23 fish and wildlife, their habitat, and the environ-  
24 ment.

1 (D) Utilizing existing facilities wherever  
2 practicable.

3 (E) Enhancing compatibility between wild-  
4 life values and development activities.

5 (g) ACCESS TO PUBLIC LANDS.—The Secretary  
6 shall—

7 (1) manage public lands in the Coastal Plain  
8 subject to subsections (a) and (b) of section 811 of  
9 the Alaska National Interest Lands Conservation  
10 Act (16 U.S.C. 3121); and

11 (2) ensure that local residents shall have rea-  
12 sonable access to public lands in the Coastal Plain  
13 for traditional uses.

14 **SEC. 6108. EXPEDITED JUDICIAL REVIEW.**

15 (a) FILING OF COMPLAINT.—

16 (1) DEADLINE.—Subject to paragraph (2), any  
17 complaint seeking judicial review of any provision of  
18 this subtitle or any action of the Secretary under  
19 this subtitle shall be filed in any appropriate district  
20 court of the United States—

21 (A) except as provided in subparagraph  
22 (B), within the 90-day period beginning on the  
23 date of the action being challenged; or

24 (B) in the case of a complaint based solely  
25 on grounds arising after such period, within 90

1           days after the complainant knew or reasonably  
2           should have known of the grounds for the com-  
3           plaint.

4           (2) VENUE.—Any complaint seeking judicial re-  
5           view of an action of the Secretary under this subtitle  
6           may be filed only in the United States Court of Ap-  
7           peals for the District of Columbia.

8           (3) LIMITATION ON SCOPE OF CERTAIN RE-  
9           VIEW.—Judicial review of a Secretarial decision to  
10          conduct a lease sale under this subtitle, including  
11          the environmental analysis thereof, shall be limited  
12          to whether the Secretary has complied with the  
13          terms of this subtitle and shall be based upon the  
14          administrative record of that decision. The Sec-  
15          retary's identification of a preferred course of action  
16          to enable leasing to proceed and the Secretary's  
17          analysis of environmental effects under this subtitle  
18          shall be presumed to be correct unless shown other-  
19          wise by clear and convincing evidence to the con-  
20          trary.

21          (b) LIMITATION ON OTHER REVIEW.—Actions of the  
22          Secretary with respect to which review could have been  
23          obtained under this section shall not be subject to judicial  
24          review in any civil or criminal proceeding for enforcement.

1 **SEC. 6109. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**  
2

3 (a) IN GENERAL.—Notwithstanding any other provi-  
4 sion of law, of the amount of adjusted bonus, rental, and  
5 royalty revenues from oil and gas leasing and operations  
6 authorized under this subtitle—

7 (1) 50 percent shall be paid to the State of  
8 Alaska; and

9 (2) except as provided in section 6112(d) the  
10 balance shall be deposited into the Treasury as mis-  
11 cellaneous receipts.

12 (b) PAYMENTS TO ALASKA.—Payments to the State  
13 of Alaska under this section shall be made semiannually.

14 **SEC. 6110. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

15 (a) EXEMPTION.—Title XI of the Alaska National In-  
16 terest Lands Conservation Act of 1980 (16 U.S.C. 3161  
17 et seq.) shall not apply to the issuance by the Secretary  
18 under section 28 of the Mineral Leasing Act (30 U.S.C.  
19 185) of rights-of-way and easements across the Coastal  
20 Plain for the transportation of oil and gas.

21 (b) TERMS AND CONDITIONS.—The Secretary shall  
22 include in any right-of-way or easement referred to in sub-  
23 section (a) such terms and conditions as may be necessary  
24 to ensure that transportation of oil and gas does not result  
25 in a significant adverse effect on the fish and wildlife, sub-  
26 sistence resources, their habitat, and the environment of

1 the Coastal Plain, including requirements that facilities be  
2 sited or designed so as to avoid unnecessary duplication  
3 of roads and pipelines.

4 (c) REGULATIONS.—The Secretary shall include in  
5 regulations under section 6103(g) provisions granting  
6 rights-of-way and easements described in subsection (a)  
7 of this section.

8 **SEC. 6111. CONVEYANCE.**

9 In order to maximize Federal revenues by removing  
10 clouds on title to lands and clarifying land ownership pat-  
11 terns within the Coastal Plain, the Secretary, notwith-  
12 standing the provisions of section 1302(h)(2) of the Alas-  
13 ka National Interest Lands Conservation Act (16 U.S.C.  
14 3192(h)(2)), shall convey—

15 (1) to the Kaktovik Inupiat Corporation the  
16 surface estate of the lands described in paragraph 1  
17 of Public Land Order 6959, to the extent necessary  
18 to fulfill the Corporation's entitlement under section  
19 12 of the Alaska Native Claims Settlement Act (43  
20 U.S.C. 1611) in accordance with the terms and con-  
21 ditions of the Agreement between the Department of  
22 the Interior, the United States Fish and Wildlife  
23 Service, the Bureau of Land Management, and the  
24 Kaktovik Inupiat Corporation effective January 22,  
25 1993; and

1           (2) to the Arctic Slope Regional Corporation  
2           the remaining subsurface estate to which it is enti-  
3           tled pursuant to the August 9, 1983, agreement be-  
4           tween the Arctic Slope Regional Corporation and the  
5           United States of America.

6 **SEC. 6112. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
7                                   **NITY SERVICE ASSISTANCE.**

8           (a) FINANCIAL ASSISTANCE AUTHORIZED.—

9           (1) IN GENERAL.—The Secretary may use  
10           amounts available from the Coastal Plain Local Gov-  
11           ernment Impact Aid Assistance Fund established by  
12           subsection (d) to provide timely financial assistance  
13           to entities that are eligible under paragraph (2) and  
14           that are directly impacted by the exploration for or  
15           production of oil and gas on the Coastal Plain under  
16           this subtitle.

17           (2) ELIGIBLE ENTITIES.—The North Slope  
18           Borough, Kaktovik, and other boroughs, municipal  
19           subdivisions, villages, and any other community or-  
20           ganized under Alaska State law shall be eligible for  
21           financial assistance under this section.

22           (b) USE OF ASSISTANCE.—Financial assistance  
23           under this section may be used only for—

24           (1) planning for mitigation of the potential ef-  
25           fects of oil and gas exploration and development on

1 environmental, social, cultural, recreational and sub-  
2 sistence values;

3 (2) implementing mitigation plans and main-  
4 taining mitigation projects;

5 (3) developing, carrying out, and maintaining  
6 projects and programs that provide new or expanded  
7 public facilities and services to address needs and  
8 problems associated with such effects, including fire-  
9 fighting, police, water, waste treatment, medivac,  
10 and medical services; and

11 (4) establishment of a coordination office, by  
12 the North Slope Borough, in the City of Kaktovik,  
13 which shall—

14 (A) coordinate with and advise developers  
15 on local conditions, impact, and history of the  
16 areas utilized for development; and

17 (B) provide to the Committee on Resources  
18 of the House of Representatives and the Com-  
19 mittee on Energy and Resources of the Senate  
20 an annual report on the status of coordination  
21 between developers and the communities af-  
22 fected by development.

23 (c) APPLICATION.—

24 (1) IN GENERAL.—Any community that is eligi-  
25 ble for assistance under this section may submit an

1 application for such assistance to the Secretary, in  
2 such form and under such procedures as the Sec-  
3 retary may prescribe by regulation.

4 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
5 community located in the North Slope Borough may  
6 apply for assistance under this section either directly  
7 to the Secretary or through the North Slope Bor-  
8 ough.

9 (3) APPLICATION ASSISTANCE.—The Secretary  
10 shall work closely with and assist the North Slope  
11 Borough and other communities eligible for assist-  
12 ance under this section in developing and submitting  
13 applications for assistance under this section.

14 (d) ESTABLISHMENT OF FUND.—

15 (1) IN GENERAL.—There is established in the  
16 Treasury the Coastal Plain Local Government Im-  
17 pact Aid Assistance Fund.

18 (2) USE.—Amounts in the fund may be used  
19 only for providing financial assistance under this  
20 section.

21 (3) DEPOSITS.—Subject to paragraph (4), there  
22 shall be deposited into the fund amounts received by  
23 the United States as revenues derived from rents,  
24 bonuses, and royalties under leases and lease sales  
25 authorized under this subtitle.

1           (4) LIMITATION ON DEPOSITS.—The total  
2 amount in the fund may not exceed \$11,000,000.

3           (5) INVESTMENT OF BALANCES.—The Sec-  
4 retary of the Treasury shall invest amounts in the  
5 fund in interest bearing government securities.

6           (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
7 vide financial assistance under this section there is author-  
8 ized to be appropriated to the Secretary from the Coastal  
9 Plain Local Government Impact Aid Assistance Fund  
10 \$5,000,000 for each fiscal year.

11                   **Subtitle B—Miscellaneous**  
12           **Amendments Relating to Mining**

13   **SEC. 6201. FEES FOR RECORDATION AND LOCATION OF**  
14                   **MINING CLAIMS.**

15           (a) DIMENSIONS OF MINING CLAIMS.—Section 2320  
16 of the Revised Statutes (30 U.S.C. 23) is amended by  
17 striking the second and third sentences and inserting the  
18 following: “A mining claim located after May 10, 1872,  
19 whether located by one or more persons, and including a  
20 claim located before exposure of the vein or lode, may  
21 equal, but shall not exceed, 1,500 feet in length along the  
22 vein or lode, and shall extend no more than 300 feet on  
23 each side of the middle of the vein at the surface, nor  
24 shall any claim be limited by any mining regulation to less  
25 than 25 feet on each side of the middle of the vein at

1 the surface, except where adverse rights existing on May  
2 10, 1872, render such limitation necessary.”.

3 (b) RIGHTS SECURED BY CLAIM MAINTENANCE  
4 FEES.—Section 2322 of the Revised Statutes (30 U.S.C.  
5 26) is amended by inserting “(a) RIGHTS OF LOCATORS,  
6 GENERALLY.—” before the first sentence, and by adding  
7 at the end the following:

8 “(b) RIGHTS SECURED BY MAINTENANCE FEES.—  
9 Prior to issuance of a patent, timely payment of the claim  
10 maintenance fee secures the rights of the holder of a min-  
11 ing claim, mill site, or tunnel site, both prior to and after  
12 discovery of valuable mineral deposits, to use and occupy  
13 public lands under the provisions of the general mining  
14 law of the United States (as that term is defined in section  
15 2324 of the Revised Statutes) for mineral prospecting, ex-  
16 ploration, development, mining, milling, and processing of  
17 minerals, reclamation of the claimed lands, and uses rea-  
18 sonably incident thereto. Except for the location fee and  
19 the maintenance fees in section 2324 of the Revised Stat-  
20 utes (30 U.S.C. 28), and the patent prices in sections  
21 2325, 2326, 2333, and 2337 of the Revised Statutes (30  
22 U.S.C. 29, 30, 37, and 42), no other fees or fair market  
23 value assessments shall be applied to prospecting, explo-  
24 ration, development, mining, processing, or reclamation,  
25 and uses reasonably incident thereto.”.

1 (c) PATENT REQUIREMENTS.—Section 2325 of the  
2 Revised Statutes (30 U.S.C. 29) is amended—

3 (1) in the second sentence by striking “, or at  
4 any time” and inserting “shall include a processing  
5 fee of \$2,500 for the first claim or site, and \$50 for  
6 each additional claim contained therein, and at any  
7 time”; and

8 (2) in the fourth sentence by inserting “and if  
9 the applicant has complied with the law of dis-  
10 covery” after “publication”.

11 (d) MINING DISTRICT REGULATIONS BY MINERS.—  
12 Section 2324 of the Revised Statutes (30 U.S.C. 28) is  
13 amended to read as follows:

14 “SEC. 2324. (a) AUTHORITY TO MAKE REGULA-  
15 TIONS.—The miners of each mining district may make  
16 regulations not in conflict with the laws of the United  
17 States, or with the laws of the State or Territory in which  
18 the district is situated, governing the location, manner of  
19 recording, amount of work necessary to hold possession  
20 of a mining claim, subject to the following requirements:

21 “(1) The location must be distinctly marked on  
22 the ground so that its boundaries can be readily  
23 traced.

24 “(2) All records of mining claims made after  
25 May 10, 1872, shall contain the name or names of

1 the locators, the date of the location, and such a de-  
2 scription of the claim or claims located by reference  
3 to some natural object or permanent monument as  
4 will identify the claim.

5 “(b) RECORDATION OF MINING CLAIMS AND ABAN-  
6 DONMENT.—The locator of an unpatented lode or placer  
7 mining claim, mill site, or tunnel site located after October  
8 21, 1976, pursuant to the general mining law of the  
9 United States shall, within 90 days after the date of loca-  
10 tion of such claim, file in the office designated by the Sec-  
11 retary of the Interior a copy of the official record of the  
12 notice of location or certificate of location, including a de-  
13 scription of the location of the mining claim or mill or  
14 tunnel site sufficient to locate the claimed lands on the  
15 ground. The failure to file such instruments as required  
16 by this subsection is deemed conclusively to constitute an  
17 abandonment of the mining claim, mill site, or tunnel site  
18 by the owner. Such recordation by itself shall not render  
19 valid any claim that would not be otherwise valid under  
20 applicable law.

21 “(c) LOCATION FEE.—Notwithstanding any other  
22 provision of law, for every mining claim, mill site, or tun-  
23 nel site located after the date of the enactment of this  
24 subsection pursuant to the general mining law of the  
25 United States, the locator shall, at the time the location

1 notice is recorded pursuant to subsection (b), pay a loca-  
2 tion fee of \$100 per claim. This fee shall be in addition  
3 to the first year's claim maintenance fee required by sub-  
4 section (d). Payment of the location fee required by this  
5 subsection and the maintenance fee required by subsection  
6 (d) secures to the locator the right to use and occupy the  
7 public lands for purposes of the general mining law of the  
8 United States.

9 “(d) SCHEDULE OF CLAIM MAINTENANCE FEES.—

10 (1) The holder of each unpatented mining claim, mill site,  
11 or tunnel site located pursuant to the general mining law  
12 of the United States on or after the date of the enactment  
13 of this subsection shall pay to the Secretary of the Inte-  
14 rior, on or before September 1 of each year, a claim main-  
15 tenance fee per claim. Except as provided in paragraph  
16 (2), such claim maintenance fee shall be paid in the fol-  
17 lowing 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  
22 through 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  
5 enactment of this subsection pursuant to the general min-  
6 ing law of the United States from which minerals are pro-  
7 duced, and in lieu of the fee otherwise required by para-  
8 graph (1), the holder shall pay to the Secretary of the  
9 Interior an annual maintenance fee of \$200 per claim.

10          “(3) The holder of each unpatented mining claim,  
11 mill site, or tunnel site located pursuant to the general  
12 mining law of the United States before the date of enact-  
13 ment of this subsection shall pay to the Secretary of the  
14 Interior 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 be-  
21           fore 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  
2 FEES.—Claim maintenance fees under subsection (d)  
3 shall not be 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  
8 holder of a claim that has transferred such claim to the  
9 claim maintenance fee schedule under subsection (d), shall  
10 conduct physical evaluation and development of the claim  
11 or of any contiguous block of claims of which the claim  
12 is a part. Exploration and mining activities conducted pur-  
13 suant to a notice, approved plan of operations, or, in the  
14 case of split estate lands, a comparable State or county  
15 notice or approval, demonstrates compliance with this sec-  
16 tion.

17       “(2) If physical evaluation of the claim is not carried  
18 out in accordance with paragraph (1) before the end of  
19 the fifth, tenth, or fifteenth maintenance year (beginning  
20 with the maintenance year in which the claim is filed),  
21 respectively, the claim holder shall be required to pay in  
22 the next maintenance year the location fee described in  
23 subsection (c), in addition to the annual claim mainte-  
24 nance fee required to be paid for the next maintenance  
25 year.

1       “(g) WAIVER OF CLAIM MAINTENANCE FEE AD-  
2 JUSTMENTS AND WORK REQUIREMENT.—If a delay in  
3 meeting the work requirements under subsection (f) is the  
4 result of pending administrative proceedings, rights-of-  
5 way disputes, or litigation concerning issuance or validity  
6 of any permit or authorization required under Federal,  
7 State, or local law for physical evaluation and development  
8 of the claim—

9               “(1) any increase in the claim maintenance fee  
10       that would otherwise apply under subsection (d) and  
11       the work requirements under subsection (f) shall be  
12       suspended for the claim; and

13               “(2) claim maintenance fees required to be paid  
14       each year for the claim shall be the same as the fee  
15       that applied for the year in which the delay first oc-  
16       curred, and no additional location fee will be owed.

17       “(h) TIME OF PAYMENT.—The claim maintenance  
18 fee required under subsection (d) for any maintenance  
19 year shall be paid before the commencement of the mainte-  
20 nance year, except that, for the maintenance year in which  
21 the location is made the locator shall pay the claim main-  
22 tenance fee and the location fee imposed under subsection  
23 (c) at the time the location notice is recorded with the  
24 Bureau of Land Management. The Director of the Bureau  
25 of Land Management, after consultation with the Gov-

1 error of Alaska and by not later than 1 year after the  
2 date of enactment of this subsection, may establish a claim  
3 maintenance fee filing date for Alaska claim holders that  
4 is not later than 60 days after September 1.

5 “(i) SMALL MINER CLAIM MAINTENANCE FEE.—(1)  
6 In the case of a claim for which the holder certifies in  
7 writing to the Secretary that, on the date the payment  
8 of any claim maintenance fee under this section was due,  
9 the claim holder and all related parties held not more than  
10 10 mining claims, mill sites, or tunnel sites, or any com-  
11 bination thereof, on public lands—

12 “(A) the claim maintenance fee shall be  
13 \$25 per claim per year for the life of the claim  
14 or site held by the claim holder; and

15 “(B) subsection (f) shall not apply.

16 “(2) In this subsection:

17 “(A) With respect to any claim holder, the term  
18 ‘related party’ means—

19 “(i) the spouse and dependent children (as  
20 defined in section 152 of the Internal Revenue  
21 Code of 1986 (26 U.S.C. 152), as in effect on  
22 the date of the enactment of this paragraph of  
23 the claim holder; and

1           “(ii) a person who controls, is controlled  
2           by, or is under common control with the claim  
3           holder.

4           “(B) The terms ‘control’, ‘controls’, and ‘con-  
5           trolled’ include actual control, legal control, and the  
6           power to exercise control, through or by common di-  
7           rectors, officers, stockholders, a voting trust, or a  
8           holding company or investment company, or any  
9           other means.

10          “(j) FAILURE TO PAY.—(1) Failure to pay a claim  
11          maintenance fee or a location fee for an unpatented min-  
12          ing claim as required by this section shall subject an  
13          unpatented mining claim, mill site, or tunnel site to for-  
14          feiture by the claim holder as provided in this subsection.

15          “(2) The Secretary of the Interior shall provide the  
16          claim holder with notice of the failure and the opportunity  
17          to cure within 45 calendar days after the claim holder’s  
18          receipt of the notice.

19          “(3) The claim holder must, within such 45-day pe-  
20          riod, pay twice the amount of maintenance fee that would  
21          otherwise have been required to be timely paid. The Sec-  
22          retary of the Interior shall specify the amount that must  
23          be paid in the notice under paragraph (2).

24          “(4) Failure by the claim holder to make a timely  
25          and proper payment in the amount specified in the notice

1 by the Secretary of the Interior, within 45 days after the  
2 claim holder's receipt of the notice, shall constitute a for-  
3 feiture of the mining claim, mill site, or tunnel site by the  
4 claim holder by operation of law.

5       “(k) FAILURE OF CO-OWNER TO CONTRIBUTE.—  
6 Upon the failure of any one of several co-owners of a claim  
7 to contribute the co-owner's proportion of any claim main-  
8 tenance fee required by this section, the co-owners who  
9 have paid the claim maintenance fee, at the expiration of  
10 the year in which any unpaid amount was due, may give  
11 such delinquent co-owner personal notice in writing or no-  
12 tice by publication in the newspaper of record for the  
13 county in which the land that is subject to the claim or  
14 mill site is located, at least once a week for 90 days. If  
15 at the expiration of such 90-day period such delinquent  
16 co-owner fails or refuses to contribute the co-owner's pro-  
17 portion of the claim maintenance fee required by this sec-  
18 tion, the co-owner's interest in the claim shall become the  
19 property of the other co-owners who have paid the claim  
20 maintenance fee. The co-owners who have assumed the in-  
21 terest in the claims shall notify the Secretary of the Inte-  
22 rior within 30 days of the assumption.

23       “(l) OIL SHALE CLAIMS SUBJECT TO CLAIM MAIN-  
24 TENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—  
25 This section shall not apply to any oil shale claim for

1 which a fee is required to be paid under section 2511(e)(2)  
2 of the Energy Policy Act of 1992 (30 U.S.C. 242).

3 “(m) GENERAL MINING LAW OF THE UNITED  
4 STATES DEFINED; RULE OF CONSTRUCTION.—(1) In this  
5 section the term ‘general mining law of the United States’  
6 means the provisions of law codified in chapters 2, 12,  
7 12A, 15, and 16 of title 30, United States Code, and in  
8 sections 161 and 162 of such title.

9 “(2) Subsections (b) and (c) shall be construed in ac-  
10 cordance with judicial decisions under section 314 of the  
11 Federal Land Policy and Management Act of 1976, as in  
12 effect before the enactment of those subsections.”.

13 (e) CONFORMING AMENDMENTS.—

14 (1) The Federal Land Policy and Management  
15 Act of 1976 is amended—

16 (A) by striking section 314 (43 U.S.C.  
17 1744);

18 (B) in the table of contents preceding title  
19 I by striking the item relating to section 314;  
20 and

21 (C) in section 302(a) by striking “section  
22 314, section 603,” and inserting “section 603”.

23 (2) Section 22 of the Alaska Native Claims Set-  
24 tlement Act is amended by striking “and section 314

1 of the Federal Land Policy and Management Act of  
2 1976 (43 U.S.C. 1744)”.

3 (3) Section 31(f) of the Mineral Leasing Act  
4 (30 U.S.C. 188(f)) is amended by striking “section  
5 314 of the Federal Land Policy and Management  
6 Act of 1976 (43 U.S.C. 1744)” and inserting “sub-  
7 sections (b) and (c) of section 2320 of the Revised  
8 Statutes (30 U.S.C. 23)”.

9 (4) Section 2511(e) of the Energy Policy Act of  
10 1992 (30 U.S.C. 242(e)) is amended by striking the  
11 last sentence.

12 **SEC. 6202. PATENTS FOR MINING OR MILL SITE CLAIMS.**

13 (a) REPEAL OF LIMITATION ON USE OF FUNDS FOR  
14 APPLICATIONS FOR PATENT.—Section 408(a) of the De-  
15 partment of the Interior, Environment, and Related Agen-  
16 cies Appropriations Act, 2006 (Public Law 109–54) is re-  
17 pealed.

18 (b) PAYMENT AMOUNTS.—The Revised Statutes are  
19 amended—

20 (1) in section 2325 (30 U.S.C. 29) by striking  
21 “five dollars per acre” and inserting “\$1,000 per  
22 acre or fair market value, whichever is greater”;

23 (2) in section 2326 (30 U.S.C. 30) by striking  
24 “five dollars per acre” and inserting “\$1,000 per  
25 acre or fair market value, whichever is greater”;

1 (3) in section 2333 (30 U.S.C. 37)—

2 (A) by striking “five dollars per acre” and  
3 inserting “\$1,000 per acre or fair market value,  
4 whichever is greater;” and

5 (B) by striking “two dollars and fifty cents  
6 per acre” and inserting “\$1,000 per acre or fair  
7 market value, whichever is greater”;

8 (4) in section 2337 (30 U.S.C. 42)—

9 (A) in subsection (a) by striking “made at  
10 the same rate” and all that follows through the  
11 end of that sentence and inserting “at the rate  
12 of \$1,000 per acre or fair market value, which-  
13 ever is greater.”; and

14 (B) in subsection (b) by striking “made at  
15 the rate” and all that follows through the end  
16 of that sentence and inserting “at the rate of  
17 \$1,000 per acre or fair market value, whichever  
18 is greater.”; and

19 (5) in section 2325 (30 U.S.C. 29) by adding  
20 at the end the following: “For purposes of this sec-  
21 tion and sections 2326, 2333, and 2337 of the Re-  
22 vised Statutes, fair market value for the patenting  
23 of mining claims or mill sites shall be determined by  
24 appraisals prepared by an appraiser certified or  
25 qualified under applicable professional criteria or

1 State law, in accordance with the Uniform Appraisal  
2 Standards for Federal Land Acquisitions and the  
3 Uniform Standards of Professional Appraisal Prac-  
4 tice, submitted by the applicant for a patent to the  
5 Secretary of the Interior upon application for patent,  
6 that is completed within 120 days prior to submis-  
7 sion of the application for patent.”.

8 (c) MINERAL DEVELOPMENT WORK REQUIRE-  
9 MENTS.—Section 2325 of the Revised Statutes (30 U.S.C.  
10 29) is amended—

11 (1) by striking “five hundred dollars’ ” and in-  
12 serting “\$7,500”; and

13 (2) by striking “labor has been expended” and  
14 inserting “mineral development work has been per-  
15 formed”.

16 (d) PATENT APPLICANTS IN LIMBO.—If the holder  
17 of an unpatented mining claim or mill site submitted an  
18 application for a mineral patent and paid the patent serv-  
19 ice charges required by regulation at the time the applica-  
20 tion was submitted, and the Secretary of the Interior did  
21 not complete all actions to process the application before  
22 April 26, 1996, the holder of such claim may, at the hold-  
23 er’s election, have such application processed under rules  
24 that applied before the date of the enactment of this Act.

1 (e) ALTERNATIVE VALUABLE MINERAL DEPOSIT  
2 CRITERIA.—Section 2325 of the Revised Statutes is fur-  
3 ther amended by inserting “(a) MANNER FOR OBTAINING  
4 PATENT, GENERALLY.—” before the first sentence, and  
5 by adding at the end the following:

6 “(b) ALTERNATIVE VALUABLE MINERAL DEPOSIT  
7 CRITERIA.—

8 “(1) CLAIMS SUBJECT TO ONGOING ACTIVI-  
9 TIES.—The holder of an unpatented mining claim or  
10 mill site who is conducting mining activities that  
11 meet the definition of a mine under section 3(h) of  
12 the Federal Mine Safety and Health Act of 1972  
13 (30 U.S.C. 802(h)) and whose activities with respect  
14 to that claim or site are described in section 4 of  
15 such Act (30 U.S.C. 803) may receive a patent for  
16 any unpatented mining claims on which mining ac-  
17 tivities are occurring or any mill sites, within the  
18 boundaries of an approved plan of operations or a  
19 comparable State or county approval. Upon con-  
20 firmation by the Secretary that minerals being  
21 mined are locatable in accordance with Federal law  
22 and that actual sales of minerals have taken place,  
23 all Federal lands within those boundaries are eligible  
24 for patent upon compliance with this section and

1 sections 2327 and 2329 of the Revised Statutes (30  
2 U.S.C. 34, 35).

3 “(2) DISCLOSED CLAIMS AND MILL SITES.—

4 The holder of an unpatented mining claim or mill  
5 site whose proven and probable reserves are publicly  
6 disclosed in compliance with the Securities Act of  
7 1933 (15 U.S.C. 77a) or the Securities Exchange  
8 Act of 1934 (15 U.S.C. 78a) may receive a patent  
9 for any such unpatented mining claim containing  
10 such reserves or for any mill site within the bound-  
11 aries of a plan of operations or a comparable State  
12 or county approval for such reserves. All Federal  
13 lands within those boundaries are eligible for patent  
14 upon compliance with this section and sections 2327  
15 and 2329 of the Revised Statutes (30 U.S.C. 34,  
16 35).

17 “(c) MINERAL EXAMINATIONS.—

18 “(1) IN GENERAL.—In order to process patent  
19 applications in a timely and responsible manner,  
20 upon the request of a patent applicant, the Sec-  
21 retary of the Interior shall allow the applicant to  
22 fund a qualified third-party examiner from a list  
23 maintained by the Bureau of Land Management to  
24 conduct a mineral examination of the mining claims  
25 or mill sites contained in a patent application as set

1       forth in this section and sections 2333 and 2337 of  
2       the Revised Statutes (30 U.S.C. 37, 42). The Bu-  
3       reau of Land Management shall have the sole re-  
4       sponsibility to maintain the list of qualified third-  
5       party examiners.

6               “(2) TRAINING.—The Director of the Bureau  
7       of Land Management shall provide training in the  
8       conduct of mineral examinations to qualified individ-  
9       uals. The Director may charge fees to cover the  
10      costs of the training.

11              “(3) QUALIFIED THIRD-PARTY EXAMINER DE-  
12      FINED.—In this subsection the term ‘qualified third-  
13      party examiner’ means a person who is a registered  
14      geologist or registered professional mining engineer  
15      licensed to practice within the State in which the  
16      claims are located.

17              “(d) DISPOSITION OF PROCEEDS.—The gross pro-  
18      ceeds of conveyances of land under this section and sec-  
19      tions 2319, 2330, 2332, 2333, and 2337 of the Revised  
20      Statutes (30 U.S.C. 22, 36, 37, 38, 42) shall be used as  
21      follows:

22              “(1) 10 percent shall be deposited into the Fed-  
23      eral Energy and Mineral Resource Professional De-  
24      velopment Fund.

1           “(2) 20 percent shall be available to the Sec-  
2           retary of the Army for use, through the Corps of  
3           Engineers, for the Restoration of Abandoned Mine  
4           Sites Program and section 560 of the Water Re-  
5           sources Development Act of 1999.

6           “(3) 70 percent shall be deposited into the Gen-  
7           eral Fund of the Treasury.

8           “(e) ISSUING PATENTS.—If no adverse claim has  
9           been filed with the register and the receiver of the proper  
10          land office at the expiration of the 60-day period begin-  
11          ning on the date of publication of the notice that an appli-  
12          cation for mineral patent has been filed under section  
13          2325, 2333 and 2337 of the Revised Statutes (30 U.S.C.  
14          29, 37, 42), the Secretary shall issue the patent not later  
15          than 24 months after the date on which the application  
16          for patent was filed.

17          “(f) SMALL MINER PATENT ADJUDICATION AND  
18          MINERAL DEVELOPMENT WORK REQUIREMENTS.—The  
19          holder of 10 claims or less who applies for a mineral pat-  
20          ent under this section or a direct purchase under section  
21          2319 of the Revised Statutes (30 U.S.C. 22) shall pay  
22          one-fifth of the processing fees and perform one-fifth of  
23          the mineral development work required under this section  
24          and section 2319 (30 U.S.C. 22).”.

1 **SEC. 6203. MINERAL EXAMINATIONS FOR MINING ON CER-**  
2 **TAIN LANDS.**

3 Section 302 of the Federal Land Policy and Manage-  
4 ment Act of 1976 (43 U.S.C. 1732) is amended by adding  
5 at the end the following:

6 “(e) The Secretary shall not require a mineral exam-  
7 ination report, otherwise required to be prepared under  
8 regulations promulgated pursuant to this Act, to approve  
9 a plan of operations under such regulations for mining  
10 claims and mill sites located on withdrawn lands if such  
11 mining claims, mill sites, and blocks of such mining claims  
12 and mill sites are contiguous to patented or unpatented  
13 mining claims or mill sites where mineral development ac-  
14 tivities, including mining, have been conducted as author-  
15 ized by law or regulation.”.

16 **SEC. 6204. MINERAL DEVELOPMENT LANDS AVAILABLE**  
17 **FOR PURCHASE.**

18 Section 2319 of the Revised Statutes (30 U.S.C. 22)  
19 is amended—

20 (1) by inserting “(a) LANDS OPEN TO PUR-  
21 CHASE BY CITIZENS.—” before the first sentence;  
22 and

23 (2) by adding at the end the following:

24 “(b) AVAILABILITY FOR PURCHASE.—Notwith-  
25 standing any other provision of law and in compliance with  
26 subsection (c), the Secretary of the Interior shall make

1 mineral deposits and the lands that contain them, includ-  
2 ing lands in which the valuable mineral deposit has been  
3 depleted, available for purchase to facilitate sustainable  
4 economic development. This subsection shall not apply  
5 with respect to any unit of the National Park System, Na-  
6 tional Wildlife Refuge System, National Wild and Scenic  
7 Rivers System, or National Trails System, or to any Na-  
8 tional Conservation Area, any National Recreation Area,  
9 any National Monument, or any unit of the National Wil-  
10 derness Preservation System.

11       “(c) APPLICATION.—The holder of mining claims,  
12 mill sites, and blocks of such mining claims and mill sites  
13 contiguous to patented or unpatented mining claims or  
14 mill sites where mineral development activities, including  
15 mining, have been conducted as authorized by law or regu-  
16 lation and on which mineral development work has been  
17 performed may apply to purchase Federal lands that are  
18 subject to the claims. The filing of the proper application  
19 shall include such processing fees as are required by sec-  
20 tion 2325 of the Revised Statutes (30 U.S.C. 29). The  
21 applicant or applicants, or their predecessors must present  
22 evidence of mineral development work performed on the  
23 Federal lands identified and submitted for purchase. Min-  
24 eral development work upon aggregation must average not

1 less than \$7,500 per mining claim or mill site within the  
2 Federal lands identified and applied for.

3       “(d) LAND SURVEYS.—For the purpose of this sec-  
4 tion, and notwithstanding section 2334 of the Revised  
5 Statutes (30 U.S.C. 39), land surveys of the Federal lands  
6 applied for shall be paid for by the applicant and shall  
7 be completed either by a land surveyor registered in the  
8 State where the land is situated, or by such a surveyor  
9 also designated by the Bureau of Land Management as  
10 a mineral surveyor, if such mineral surveyors are avail-  
11 able, willing, and able to complete such surveys without  
12 delay at a cost comparable to the charges of ordinary reg-  
13 istered land surveyors.

14       “(e) DEADLINE FOR CONVEYANCE; PRICE.—Not-  
15 withstanding any other provision of law, and not later  
16 than one year after the date of the approval of any survey  
17 required under subsection (d), the Secretary of the Inte-  
18 rior shall convey to the applicant, in return for a payment  
19 of \$1,000 per acre or fair market value, whichever is  
20 greater, all right, title, and interest in and to the Federal  
21 land, subject to valid existing rights and the terms and  
22 conditions of the Act of August 30, 1890 (26 Stat. 391).  
23 For purposes of this subsection, fair market value for min-  
24 eral development lands available for purchase shall be de-  
25 termined by appraisals prepared by an appraiser certified

1 or qualified under applicable professional criteria or State  
2 law, in accordance with the Uniform Appraisal Standards  
3 for Federal Land Acquisitions and the Uniform Standards  
4 of Professional Appraisal Practice, submitted by the appli-  
5 cant to the Secretary of the Interior upon application for  
6 purchase, that is completed within 120 days prior to sub-  
7 mission of the application. Fair market value for the inter-  
8 est in the land owned by the United States shall be exclu-  
9 sive of, and without regard to, the mineral deposits in the  
10 land or the use of such land for mineral activities.

11 “(f) ENVIRONMENTAL LIABILITY.—Notwithstanding  
12 any other Federal, State or local law, the United States  
13 shall not be responsible for—

14 “(1) investigating or disclosing the condition of  
15 any property to be conveyed under this section; and

16 “(2) environmental remediation, waste manage-  
17 ment, or environmental compliance activities arising  
18 from its ownership, occupancy, or management of  
19 land and interests therein conveyed under this sec-  
20 tion with respect to conditions existing at or on the  
21 land at the time of the conveyance.

22 “(g) MINERAL DEVELOPMENT WORK DEFINED.—In  
23 this section the term ‘mineral development work’ means  
24 geologic, geochemical or geophysical surveys; road build-  
25 ing; exploration drilling, trenching, and exploratory sam-

1 pling by any other means; construction of underground  
2 workings for the purpose of conducting exploration; mine  
3 development work; mineral production from underground  
4 or surface mines; environmental baseline studies; con-  
5 struction of environmental protection and monitoring sys-  
6 tems; environmental reclamation; construction of power  
7 and water distribution facilities; engineering, metallur-  
8 gical, geotechnical, and economic feasibility studies; land  
9 surveys; and any other work reasonably incident to min-  
10 eral development.”.

11 **SEC. 6205. NATIONAL MINING AND MINERALS POLICY TO**  
12 **ENCOURAGE AND PROMOTE THE PRODUC-**  
13 **TIVE SECOND USE OF LANDS.**

14 Section 101 of the Mining and Minerals Policy Act  
15 of 1970 (30 U.S.C. 21a) is amended—

16 (1) in the first sentence—

17 (A) in clause (2) by inserting “including  
18 through re-mining where appropriate” after  
19 “needs,”;

20 (B) in clause (3) by striking “and” after  
21 the comma at the end; and

22 (C) by striking the period at the end and  
23 inserting the following: “, and (5) facilitate the  
24 productive second use of lands used for mining  
25 and energy production.”;

1           (2) in the second sentence by striking “oil shale  
2           and uranium” and inserting “oil shale, and uranium,  
3           whether located onshore or offshore”; and

4           (3) in the third sentence—

5           (A) by striking “the Secretary of the Inte-  
6           rior” and inserting “the head of each Federal  
7           department and of each independent agency”;  
8           and

9           (B) by striking “his”.

10 **SEC. 6206. REGULATIONS.**

11           The Secretary of the Interior shall issue final regula-  
12           tions implementing this subtitle by not later than 180 days  
13           after the date of the enactment of this Act.

14 **SEC. 6207. PROTECTION OF NATIONAL PARKS AND WILDER-  
15           NESS AREAS.**

16           Subject to valid existing rights, nothing in sections  
17           6202, 6203, 6204, 6205, and 6206 of this subtitle shall  
18           be construed as affecting any lands within the boundary  
19           of any unit of the National Park System, National Wildlife  
20           Refuge System, National Wild and Scenic Rivers System,  
21           or National Trails System, or any National Conservation  
22           Area, any National Recreation Area, any National Monu-  
23           ment, or any unit of the National Wilderness Preservation  
24           System as of the date of the enactment of this Act.

1           **Subtitle C—Disposal of Public**  
2                                   **Lands**

3           **CHAPTER 1—DISPOSAL OF CERTAIN**  
4                                   **PUBLIC LANDS IN NEVADA**

5   **SEC. 6301. SHORT TITLE.**

6           This chapter may be cited as the “Northern Nevada  
7 Sustainable Development in Mining Act”.

8   **SEC. 6302. DEFINITIONS.**

9           In this chapter:

10           (1) CLAIMANT.—The term “Claimant” means  
11           Coeur Rochester, Inc.

12           (2) COUNTY.—The term “County” means Per-  
13           shing County, Nevada.

14           (3) GENERAL MINING LAW.—The term “general  
15           mining law” means the provisions of law codified in  
16           chapters 2, 12, 12A, 15, and 16 of title 30, United  
17           States Code, and in sections 161 and 162 of such  
18           title.

19           (4) SECRETARY.—The term “Secretary” means  
20           the Secretary of the Interior.

21   **SEC. 6303. LAND CONVEYANCE.**

22           (a) CONVEYANCE OF LAND.—Notwithstanding any  
23           other provision of law, and not later than 90 days after  
24           the date of the enactment of this Act, the Secretary shall  
25           convey to the Claimant, in return for a payment of \$500

1 per acre, all right, title, and interest, subject to the terms  
2 and conditions of subsection (c), in the approximately  
3 7,000 acres of Federal lands subject to Claimant's mining  
4 claims maintained under the general mining law and de-  
5 picted on the Rochester Sustainable Development Project  
6 map on file with the Committee on Resources of the House  
7 of Representatives.

8 (b) EXEMPTION FROM REVIEW, ETC.—Any convey-  
9 ance of land under this chapter is not subject to review,  
10 consultation, or approval under any other Federal law.

11 (c) TERMS AND CONDITIONS OF CONVEYANCE.—

12 (1) NO IMPACT ON LEGAL OBLIGATIONS.—Con-  
13 veyance of the lands pursuant to subsection (a) shall  
14 not affect Claimant's legal obligations to comply  
15 with applicable Federal mine closure or mine land  
16 reclamation laws, or with any other applicable Fed-  
17 eral or State requirement relating to closure of the  
18 Rochester Mine and use of the land comprising such  
19 mine, including any requirement to prepare any en-  
20 vironmental impact statement under the National  
21 Environmental Policy Act of 1969. Federal reclama-  
22 tion and closure obligations shall not be construed to  
23 require removal of infrastructure identified by  
24 Claimant as being usable by a post-mining land use.

1           (2) TITLE TO MATERIALS AND MINERALS.—  
2           Notwithstanding any other provision of law, Claim-  
3           ant shall own and have title to all spent ore, waste  
4           rock and tailings, and other materials located on  
5           lands conveyed pursuant to subsection (a).

6           (3) VALID EXISTING RIGHTS.—All lands con-  
7           veyed pursuant to subsection (a) shall be subject to  
8           valid existing rights existing as of the date of trans-  
9           fer of title, and Claimant shall succeed to the rights  
10          and obligations of the United States with respect to  
11          any mining claim, mill site claim, lease, right-of-way,  
12          permit, or other valid existing right to which the  
13          property is subject.

14          (4) ENVIRONMENTAL LIABILITY.—Notwith-  
15          standing any other Federal, State or local law, the  
16          United States shall not be responsible for—

17                 (A) investigating or disclosing the condi-  
18                 tion of any property to be conveyed under this  
19                 chapter; and

20                 (B) environmental remediation, waste  
21                 management, or environmental compliance ac-  
22                 tivities arising from its ownership, occupancy,  
23                 or management of land and interests therein  
24                 conveyed under this chapter with respect to

1 conditions existing at or on the land at the time  
2 of the conveyance.

3 **SEC. 6304. DISPOSITION OF PROCEEDS.**

4 The gross proceeds of conveyances of land under this  
5 chapter shall be used as follows:

6 (1) Such sums as are necessary shall be used  
7 to cover 100 percent of the administrative costs, not  
8 to exceed \$20,000, incurred by the Nevada State Of-  
9 fice and the Winnemucca Field Office of the Bureau  
10 of Land Management in conducting the conveyance  
11 under this chapter.

12 (2) \$500,000 shall be paid directly to the State  
13 of Nevada for use in the State's abandoned mined  
14 land program.

15 (3) \$100,000 shall be paid directly to Pershing  
16 County, Nevada.

17 (4) Proceeds remaining after the payments pur-  
18 suant to paragraphs (1) through (3) shall be depos-  
19 ited in the general fund of the Treasury.

20 **CHAPTER 2—DISPOSAL OF CERTAIN**  
21 **PUBLIC LANDS IN IDAHO**

22 **SEC. 6311. SHORT TITLE.**

23 This chapter may be cited as the “Central Idaho Sus-  
24 tainable Development in Mining Act”.

1 **SEC. 6312. DEFINITIONS.**

2 In this chapter:

3 (1) CLAIMANT.—The term “Claimant” means  
4 TDS LLC, an affiliated company of L&W Stone  
5 Corporation.

6 (2) COUNTY.—The term “County” means Cus-  
7 ter County, Idaho.

8 (3) GENERAL MINING LAW.—The term “general  
9 mining law” means the provisions of law codified in  
10 chapters 2, 12A, 15, and 16 of title 30, United  
11 States Code, and in sections 161 and 162 of such  
12 title.

13 (4) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Interior.

15 **SEC. 6313. LAND CONVEYANCE.**

16 (a) CONVEYANCE OF LAND.—Notwithstanding any  
17 other provision of law, and not later than 90 days after  
18 the date of the enactment of this Act, the Secretary shall  
19 convey to the Claimant, in return for a payment of \$1,000  
20 per acre, all right, title, and interest, subject to the terms  
21 and conditions of subsection (c), in the approximately  
22 519.7 acres of Federal lands subject to Claimant’s mining  
23 claims maintained under the general mining law and de-  
24 picted as “proposed land exchange alignment” on the Cen-  
25 tral Idaho Sustainable Development Project map on file

1 with the Committee on Resources of the House of Rep-  
2 resentatives.

3 (b) EXEMPTION FROM REVIEW, ETC.—Any convey-  
4 ance of land under this chapter is not subject to review,  
5 consultation, or approval under any other Federal law.

6 (c) TERMS AND CONDITIONS OF CONVEYANCE.—

7 (1) TRANSFER OF FEE TITLE IN FEDERAL  
8 LANDS.—Notwithstanding any other provision of  
9 law, full fee title in approximately 519.7 acres of  
10 Federal lands described in subsection (a) shall be  
11 transferred to Claimant as depicted as “proposed  
12 land exchange alignment” on the Central Idaho Sus-  
13 tainable Development Project map.

14 (2) VALID EXISTING RIGHTS.—All lands con-  
15 veyed pursuant to subsection (a) shall be subject to  
16 valid existing rights existing as of the date of trans-  
17 fer of title, and Claimant shall succeed to the rights  
18 and obligations of the United States with respect to  
19 any mining claim, mill site claim, lease, right-of-way,  
20 permit, or other valid existing right to which the  
21 property is subject.

22 (3) ENVIRONMENTAL LIABILITY.—Notwith-  
23 standing any other Federal, State, or local law, the  
24 United States shall not be responsible for—

1 (A) investigating or disclosing the condi-  
2 tion of any property to be conveyed under this  
3 chapter; and

4 (B) environmental remediation, waste  
5 management, or environmental compliance ac-  
6 tivities arising from its ownership, occupancy,  
7 or management of land and interests therein  
8 conveyed under this chapter with respect to  
9 conditions existing at or on the land at the time  
10 of the conveyance.

11 **SEC. 6314. DISPOSITION OF PROCEEDS.**

12 Within one year of the completion of the conveyance  
13 under this chapter, the gross proceeds of the conveyance  
14 shall be used as follows:

15 (1) Such sums as are necessary shall be used  
16 to cover 100 percent of the administrative costs, not  
17 to exceed \$15,000, incurred by the Idaho State Of-  
18 fice and the Challis Field Office of the Bureau of  
19 Land Management in conducting conveyances under  
20 this chapter.

21 (2) \$200,000 shall be paid directly to the State  
22 of Idaho for use in the State Parks program.

23 (3) \$200,000 shall be paid directly to Custer  
24 County, Idaho.

1           (4) Proceeds remaining after the payments pur-  
2           suant to paragraphs (1) through (3) shall be depos-  
3           ited in the general fund of the Treasury.

## 4                           **Subtitle D—Oil Shale**

### 5   **SEC. 6401. OIL SHALE AND TAR SANDS AMENDMENTS.**

6           (a) COMMERCIAL LEASING OF OIL SHALE AND TAR  
7   SANDS.—Section 369(e) of the Energy Policy Act of 2005  
8   (Public Law 109–58) is amended to read as follows:

9           “(e) COMMENCEMENT OF COMMERCIAL LEASING OF  
10   OIL SHALE AND TAR SAND.—Not later than 365 days  
11   after publication of the final regulation required by sub-  
12   section (d), the Secretary shall hold the first oil shale and  
13   tar sands lease sales under the regulation, offering for  
14   lease a minimum of 35 percent of the Federal lands that  
15   are geologically prospective for oil shale and tar sands  
16   within Colorado, Utah, and Wyoming. The environmental  
17   impact statement developed in support of the commercial  
18   leasing program for oil shale and tar sands as required  
19   by subsection (c) is deemed to provide adequate environ-  
20   mental analysis for all oil shale and tar sands lease sales  
21   conducted within the first 10 years after promulgation of  
22   the regulation, and such sales shall not be subject to fur-  
23   ther environmental analysis.”.

24           (b) REPEAL OF REQUIREMENT TO ESTABLISH PAY-  
25   MENTS.—Section 369(o) of the Energy Policy Act of 2005

1 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927)  
2 is repealed.

3 (c) TREATMENT OF REVENUES.—Section 21 of the  
4 Mineral Leasing Act (30 U.S.C. 241) is amended by add-  
5 ing at the end the following:

6 “(e) REVENUES.—

7 “(1) IN GENERAL.—Notwithstanding the provi-  
8 sions of section 35, all revenues received from and  
9 under an oil shale or tar sands lease shall be dis-  
10 posed of as provided in this subsection.

11 “(2) ROYALTY RATES FOR COMMERCIAL  
12 LEASES.—

13 “(A) INITIAL PRODUCTION.—For the first  
14 10 years after initial production under each oil  
15 shale or tar sands lease issued under the com-  
16 mercial leasing program established under sub-  
17 section (d), the Secretary shall set the royalty  
18 rate at not less than 1 percent nor more than  
19 3 percent of the gross value of production.  
20 However, the initial production period royalty  
21 rate set by the Secretary shall not apply to pro-  
22 duction occurring more than 15 years after the  
23 date of issuance of the lease.

24 “(B) SUBSEQUENT PERIODS.—After the  
25 periods of time specified in subparagraph (A),

1 the Secretary shall set the royalty rate on each  
2 oil shale or tar sands lease issued under the  
3 commercial leasing program established under  
4 subsection (d) at not less than 6 percent nor  
5 more than 9 percent of the gross value of pro-  
6 duction.

7 “(C) REDUCTION.—The Secretary shall re-  
8 duce any royalty otherwise required to be paid  
9 under subparagraphs (A) and (B) under any oil  
10 shale or tar sands lease on a sliding scale based  
11 upon market price, with a 10 percent reduction  
12 if the monthly average price of NYMEX West  
13 Texas Intermediate crude oil at Cushing, Okla-  
14 homa, (WTI) drops below \$50 (in 2005 dollars)  
15 for the month in which the production is sold,  
16 and an 80 percent reduction if the monthly av-  
17 erage price of WTI drops below \$30 (in 2005  
18 dollars) for the month in which the production  
19 is sold.

20 “(3) DISPOSITION OF REVENUES.—

21 “(A) DEPOSIT.—The Secretary shall de-  
22 posit into a separate account in the Treasury  
23 all revenues derived from any oil shale or tar  
24 sands lease.

1           “(B) ALLOCATIONS TO STATES AND LOCAL  
2 POLITICAL SUBDIVISIONS.—The Secretary shall  
3 allocate 50 percent of the revenues deposited  
4 into the account established under subpara-  
5 graph (A) to the State within the boundaries of  
6 which the leased lands are located, with a por-  
7 tion of that to be paid directly by the Secretary  
8 to the State’s local political subdivisions as pro-  
9 vided in this paragraph.

10           “(C) TRANSMISSION OF ALLOCATIONS.—

11           “(i) IN GENERAL.—Not later than the  
12 last business day of the month after the  
13 month in which the revenues were received,  
14 the Secretary shall transmit—

15           “(I) to each State two-thirds of  
16 such State’s allocations under sub-  
17 paragraph (B), and in accordance  
18 with clauses (ii) and (iii) to certain  
19 county-equivalent and municipal polit-  
20 ical subdivisions of such State a total  
21 of one-third of such State’s allocations  
22 under subparagraph (B), together  
23 with all accrued interest thereon; and

24           “(II) the remaining balance of  
25 such revenues deposited into the ac-

1 count that are not allocated under  
2 subparagraph (B), together with in-  
3 terest thereon, shall be transmitted to  
4 the miscellaneous receipts account of  
5 the Treasury, except that until a lease  
6 has been in production for 10 years  
7 80 percent of such remaining balance  
8 derived from a lease shall be paid in  
9 accordance with subclause (I).

10 “(ii) ALLOCATIONS TO CERTAIN  
11 COUNTY-EQUIVALENT POLITICAL SUBDIVI-  
12 SIONS.—The Secretary shall under clause  
13 (i)(I) make equitable allocations of the rev-  
14 enues to county-equivalent political sub-  
15 divisions that the Secretary determines are  
16 closely associated with the leasing and pro-  
17 duction of oil shale and tar sands, under a  
18 formula that the Secretary shall determine  
19 by regulation.

20 “(iii) ALLOCATIONS TO MUNICIPAL  
21 POLITICAL SUBDIVISIONS.—The initial al-  
22 location to each county-equivalent political  
23 subdivision under clause (ii) shall be fur-  
24 ther allocated to the county-equivalent po-  
25 litical subdivision and any municipal polit-

1           ical subdivisions located partially or wholly  
2           within the boundaries of the county-equiva-  
3           lent political subdivision on an equitable  
4           basis under a formula that the Secretary  
5           shall determine by regulation.

6           “(D) INVESTMENT OF DEPOSITS.—The de-  
7           posits in the Treasury account established  
8           under this section shall be invested by the Sec-  
9           retary of the Treasury in securities backed by  
10          the full faith and credit of the United States  
11          having maturities suitable to the needs of the  
12          account and yielding the highest reasonably  
13          available interest rates as determined by the  
14          Secretary of the Treasury.

15          “(E) USE OF FUNDS.—A recipient of  
16          funds under this subsection may use the funds  
17          for any lawful purpose as determined by State  
18          law. Funds allocated under this subsection to  
19          States and local political subdivisions may be  
20          used as matching funds for other Federal pro-  
21          grams without limitation. Funds allocated to  
22          local political subdivisions under this subsection  
23          may not be used in calculation of payments to  
24          such local political subdivisions under programs

1 for payments in lieu of taxes or other similar  
2 programs.

3 “(F) NO ACCOUNTING REQUIRED.—No re-  
4 cipient of funds under this subsection shall be  
5 required to account to the Federal Government  
6 for the expenditure of such funds, except as  
7 otherwise may be required by law.

8 “(4) DEFINITIONS.—In this subsection:

9 “(A) COUNTY-EQUIVALENT POLITICAL  
10 SUBDIVISION.—The term ‘county-equivalent po-  
11 litical subdivision’ means a political jurisdiction  
12 immediately below the level of State govern-  
13 ment, including a county, parish, borough in  
14 Alaska, independent municipality not part of a  
15 county, parish, or borough in Alaska, or other  
16 equivalent subdivision of a State.

17 “(B) MUNICIPAL POLITICAL SUBDIVI-  
18 SION.—The term ‘municipal political subdivi-  
19 sion’ means a municipality located within and  
20 part of a county, parish, borough in Alaska, or  
21 other equivalent subdivision of a State.”.

1                   **Subtitle E—Ocean Energy**  
2                                   **Resources**

3 **SEC. 6501. SHORT TITLE.**

4           This subtitle may be cited as the “Ocean State Op-  
5 tions Act of 2005”.

6 **SEC. 6502. POLICY.**

7           It is the policy of the United States that—

8                   (1) Adjacent States are required by the cir-  
9 cumstances to commit significant resources in sup-  
10 port of exploration, development, and production ac-  
11 tivities for mineral resources on the outer Conti-  
12 nental Shelf, and it is fair and proper for a portion  
13 of the receipts from such activities to be shared with  
14 Adjacent States and their local coastal governments;

15                   (2) the existing laws governing the leasing and  
16 production of the mineral resources of the outer  
17 Continental Shelf have reduced the production of  
18 mineral resources, have preempted Adjacent States  
19 from being sufficiently involved in the decisions re-  
20 garding the allowance of mineral resource develop-  
21 ment, and have been harmful to the national inter-  
22 est;

23                   (3) the national interest is served by granting  
24 the Adjacent States more options related to whether

1 or not mineral leasing should occur in the outer  
2 Continental Shelf within their Adjacent Zones;

3 (4) it is not reasonably foreseeable that explo-  
4 ration of a leased tract located more than 25 miles  
5 seaward of the coastline, development and produc-  
6 tion of a natural gas discovery located more than 25  
7 miles seaward of the coastline, or development and  
8 production of an oil discovery located more than 50  
9 miles seaward of the coastline will adversely affect  
10 resources near the coastline;

11 (5) transportation of oil from a leased tract  
12 might reasonably be foreseen, under limited cir-  
13 cumstances, to have the potential to adversely affect  
14 such resources if the oil is within 50 miles of the  
15 coastline, but such potential to adversely affect such  
16 resources is likely no greater, and probably less,  
17 than the potential impacts from tanker transpor-  
18 tation because tanker spills usually involve large re-  
19 leases of oil over a brief period of time; and

20 (6) among other bodies of inland waters, the  
21 Great Lakes, Long Island Sound, Delaware Bay,  
22 Chesapeake Bay, Albemarle Sound, San Francisco  
23 Bay, and Puget Sound are not part of the outer  
24 Continental Shelf, and are not subject to leasing by  
25 the Federal Government for the exploration, develop-

1           ment, and production of any mineral resources that  
2           might lie beneath them.

3   **SEC. 6503. DEFINITIONS UNDER THE OUTER CONTINENTAL**  
4                           **SHELF LANDS ACT.**

5           Section 2 of the Outer Continental Shelf Lands Act  
6 (43 U.S.C. 1331) is amended—

7           (1) by amending paragraph (f) to read as fol-  
8           lows:

9           “(f) The term ‘affected State’ means the Adjacent  
10 State.”;

11           (2) by striking the semicolon at the end of each  
12           of paragraphs (a) through (o) and inserting a pe-  
13           riod;

14           (3) by striking “; and” at the end of paragraph  
15           (p) and inserting a period;

16           (4) by adding at the end the following:

17           “(r) The term ‘Adjacent State’ means, with respect  
18 to any program, plan, lease sale, leased tract or other ac-  
19 tivity, proposed, conducted, or approved pursuant to the  
20 provisions of this Act, any State the laws of which are  
21 declared, pursuant to section 4(a)(2), to be the law of the  
22 United States for the portion of the outer Continental  
23 Shelf on which such program, plan, lease sale, leased tract  
24 or activity appertains or is, or is proposed to be, con-  
25 ducted. For purposes of this paragraph, the term ‘State’

1 includes Puerto Rico and the other Territories of the  
2 United States.

3 “(s) The term ‘Adjacent Zone’ means, with respect  
4 to any program, plan, lease sale, leased tract, or other ac-  
5 tivity, proposed, conducted, or approved pursuant to the  
6 provisions of this Act, the portion of the outer Continental  
7 Shelf for which the laws of a particular Adjacent State  
8 are declared, pursuant to section 4(a)(2), to be the law  
9 of the United States.

10 “(t) The term ‘miles’ means statute miles.

11 “(u) The term ‘coastline’ has the same meaning as  
12 the term ‘coast line’ as defined in section 2(c) of the Sub-  
13 merged Lands Act (43 U.S.C. 1301(c)).

14 “(v) The term ‘Neighboring State’ means a coastal  
15 state having a common boundary at the coastline with the  
16 Adjacent State; and”.

17 (5) in paragraph (a), by inserting after “con-  
18 trol” the following: “or lying within the United  
19 States exclusive economic zone adjacent to the Terri-  
20 tories of the United States”.

21 **SEC. 6504. DETERMINATION OF ADJACENT ZONES AND**  
22 **PLANNING AREAS.**

23 Section 4(a)(2)(A) of the Outer Continental Shelf  
24 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the  
25 first sentence by striking “, and the President” and all

1 that follows through the end of the sentence and inserting  
2 the following: “. The lines extending seaward and defining  
3 each State’s Adjacent Zone, and each OCS Planning Area,  
4 are as indicated on the maps for each outer Continental  
5 Shelf region entitled ‘Alaska OCS Region State Adjacent  
6 Zone and OCS Planning Areas’, ‘Pacific OCS Region  
7 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of  
8 Mexico OCS Region State Adjacent Zones and OCS Plan-  
9 ning Areas’, and ‘Atlantic OCS Region State Adjacent  
10 Zones and OCS Planning Areas’, all of which are dated  
11 September 2005 and on file in the Office of the Director,  
12 Minerals Management Service.”.

13 **SEC. 6505. ADMINISTRATION OF LEASING.**

14 Section 5 of the Outer Continental Shelf Lands Act  
15 (43 U.S.C. 1334) is amended by adding at the end the  
16 following:

17 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A  
18 LEASE.—Any lessee of a producing lease may relinquish  
19 to the Secretary any portion of a lease that the owner has  
20 no interest in producing and that the Secretary finds is  
21 geologically prospective. In return for any such relinquis-  
22 ment, the Secretary shall provide to the owner a royalty  
23 incentive in accordance with regulations promulgated by  
24 the Secretary to carry out this subsection. The Secretary  
25 shall publish final regulations implementing this sub-

1 section within 365 days after the date of the enactment  
2 of the Ocean State Options Act of 2005.

3 “(1) NATURAL GAS LEASE REGULATIONS.—Not later  
4 than October 1, 2006, the Secretary shall publish a final  
5 regulation that shall—

6 “(1) establish procedures for entering into nat-  
7 ural gas leases;

8 “(2) ensure that natural gas leases are only  
9 available for tracts on the outer Continental Shelf  
10 that are wholly within 125 miles of the coastline  
11 within an area withdrawn from disposition by leas-  
12 ing on the day after the date of enactment of the  
13 Ocean State Options Act of 2005;

14 “(3) provide that natural gas leases shall con-  
15 tain the same rights and obligations established for  
16 oil and gas leases, except as otherwise provided in  
17 the Ocean State Options Act of 2005;

18 “(4) provide that, in reviewing the adequacy of  
19 bids for natural gas leases, the value of any crude  
20 oil estimated to be contained within any tract shall  
21 be excluded;

22 “(5) provide that any crude oil produced from  
23 a well and reinjected into the leased tract shall not  
24 be subject to payment of royalty, and that the Sec-  
25 retary shall consider, in setting the royalty rates for

1 a natural gas lease, the additional cost to the lessee  
2 of not producing any crude oil; and

3 “(6) provide that any Federal law that applies  
4 to an oil and gas lease on the outer Continental  
5 Shelf shall apply to a natural gas lease unless other-  
6 wise clearly inapplicable.”.

7 **SEC. 6506. GRANT OF LEASES BY SECRETARY.**

8 Section 8 of the Outer Continental Shelf Lands Act  
9 (43 U.S.C. 1337) is amended—

10 (1) in subsection (a)(1) by inserting after the  
11 first sentence the following: “Further, the Secretary  
12 may grant natural gas leases in a manner similar to  
13 the granting of oil and gas leases and under the var-  
14 ious bidding systems available for oil and gas  
15 leases.”;

16 (2) by adding at the end of subsection (b) the  
17 following:

18 “The Secretary may issue more than one lease for a given  
19 tract if each lease applies to a separate and distinct range  
20 of vertical depths, horizontal surface area, or a combina-  
21 tion of the two. The Secretary may issue regulations that  
22 the Secretary determines are necessary to manage such  
23 leases consistent with the purposes of this Act.”.

24 (3) in subsection (p)(2)(B)—

1 (A) by striking “27” and inserting “50”;

2 and

3 (B) by striking “15” and inserting “200”;

4 (4) by adding at the end the following:

5 “(q) NATURAL GAS LEASES.—

6 “(1) RIGHT TO PRODUCE NATURAL GAS.—A

7 lessee of a natural gas lease shall have the right to  
8 produce the natural gas from a natural gas leased  
9 tract if the Secretary estimates that the discovered  
10 field has at least 40 percent of the economically re-  
11 coverable Btu content of the field contained within  
12 natural gas and such natural gas is economical to  
13 produce.

14 “(2) RIGHT TO PRODUCE CRUDE OIL.—A lessee  
15 of a natural gas lease may produce crude oil from  
16 the lease unless the Governor and the legislature of  
17 the Adjacent State object to such production within  
18 180 days after receipt of written notice from the les-  
19 see of intent to produce crude oil from the lease. If  
20 the leased tract is located within 50 miles of the  
21 nearest point on the coastline of a Neighboring  
22 State, the Governor and legislature of the Neigh-  
23 boring State shall also receive such notice and have  
24 the right to object to such production within 180  
25 days after receipt of such notice.

1           “(3) ESTIMATES OF BTU CONTENT.—The Sec-  
2           retary shall make estimates of the natural gas Btu  
3           content of discovered fields on a natural gas lease  
4           only after the completion of at least one exploration  
5           well, the data from which has been tied to the re-  
6           sults of a three-dimensional seismic survey of the  
7           field. The Secretary may not require the lessee to  
8           further delineate any discovered field prior to mak-  
9           ing such estimates.

10           “(4) TRANSPORTATION OF CRUDE OIL.—If an  
11           Adjacent State or any applicable Neighboring State  
12           does not object to production of crude oil from a  
13           natural gas lease, the lessee shall be permitted to  
14           transport the crude oil from the leased tract through  
15           Adjacent State waters, and Neighboring State wa-  
16           ters if applicable, to facilities onshore in the Adja-  
17           cent State, and Neighboring State if applicable, un-  
18           less the lessee agreed to other arrangements with  
19           the Adjacent State or Neighboring State, or both.

20           “(5) REPURCHASE OF CERTAIN NATURAL GAS  
21           LEASES.—Upon request of the lessee and certifi-  
22           cation by the Secretary of the Interior that a natural  
23           gas lease contains all or part of a commercial oil and  
24           gas discovery that is not allowed to be produced be-  
25           cause it does not meet the standard set in paragraph

1 (1), the Secretary of the Treasury shall repurchase  
2 the lease by issuance of a check or electronic pay-  
3 ment from OCS Receipts to the lessee in full com-  
4 pensation for the repurchase. The Secretary shall re-  
5 coup from the State and local governments any  
6 funds previously shared with them that were derived  
7 from the repurchased lease. Such recoupment shall  
8 only be from the State and local governments'  
9 shares of OCS receipts that are payable after the  
10 date of repurchase.

11 “(6) AMOUNT OF COMPENSATION.—Repurchase  
12 compensation for each lease repurchased under the  
13 authority of this section shall be in the amount of  
14 the lesser of the original bonus bid paid for the lease  
15 or, if the lessee is not the original lessee, the com-  
16 pensation paid by the current lessee to obtain its in-  
17 terest in the lease. In addition, the lessee shall be  
18 compensated for any expenses directly attributable  
19 to the lease that the lessee incurs after acquisition  
20 of its interest in the lease to be repurchased, includ-  
21 ing rentals, seismic acquisition costs, drilling costs,  
22 and other reasonable expenses on the lease, includ-  
23 ing expenses incurred in the repurchase process, to  
24 the extent that the lessee has not previously been  
25 compensated by the United States for such expenses.

1 The lessee shall not be compensated for general  
2 overhead expenses or employee salaries.

3 “(7) PRIORITY RIGHT TO OBTAIN FUTURE OIL  
4 AND GAS LEASE.—The lessee, or a designee of the  
5 lessee, of a repurchased natural gas leased tract  
6 shall have the right to repurchase such tract as an  
7 oil and gas lease, on a noncompetitive basis, by re-  
8 paying the amount received by the lessee if the tract  
9 is made available for lease under an oil and gas  
10 lease within 30 years after the repurchase.

11 “(8) DEFINITION OF NATURAL GAS.—For pur-  
12 poses of a natural gas lease, natural gas means nat-  
13 ural gas and all substances produced in association  
14 with gas, including, but not limited to, hydrocarbon  
15 liquids (other than crude oil) that are obtained by  
16 the condensation of hydrocarbon vapors and sepa-  
17 rate out in liquid form from the produced gas  
18 stream.

19 “(r) REMOVAL OF RESTRICTIONS ON JOINT BIDDING  
20 IN CERTAIN AREAS OF THE OUTER CONTINENTAL  
21 SHELF.—Restrictions on joint bidders shall no longer  
22 apply to tracts located in the Alaska OCS Region. Such  
23 restrictions shall not apply to tracts in other OCS regions  
24 determined to be ‘frontier tracts’ or otherwise ‘high cost  
25 tracts’ under final regulations that shall be published by

1 the Secretary by not later than 365 days after the date  
2 of the enactment of the Ocean State Options Act of  
3 2005.”;

4 (5) by striking subsection (a)(3)(A) and redesi-  
5 gnating the subsequent subparagraphs as subpara-  
6 graphs (A) and (B), respectively;

7 (6) in subsection (a)(3)(A) (as so redesignated)  
8 by striking “In the Western” and all that follows  
9 through “the Secretary” the first place it appears  
10 and inserting “The Secretary”; and

11 (7) effective October 1, 2013, in subsection  
12 (g)—

13 (A) by striking all after “(g)”, except para-  
14 graph (3);

15 (B) by striking the last sentence of para-  
16 graph (3); and

17 (C) by striking “(3)”.

18 **SEC. 6507. DISPOSITION OF RECEIPTS.**

19 Section 9 of the Outer Continental Shelf Lands Act  
20 (43 U.S.C. 1338) is amended—

21 (1) by designating the existing text as sub-  
22 section (a);

23 (2) in subsection (a) (as so designated) by in-  
24 serting “, if not paid as otherwise provided in this  
25 title” after “receipts”; and

1 (3) by adding the following:

2 “(b) TREATMENT OF OCS RECEIPTS FROM TRACTS  
3 COMPLETELY WITHIN 125 MILES OF THE COASTLINE.—

4 “(1) DEPOSIT.—The Secretary shall deposit  
5 into a separate account in the Treasury the portion  
6 of OCS Receipts for each fiscal year that will be  
7 shared under paragraphs (2) and (3).

8 “(2) RECEIPTS SHARING BEGINNING OCTOBER  
9 1, 2010.—

10 “(A) Beginning October 1, 2010, the Sec-  
11 retary shall share OCS Receipts derived from  
12 the following areas:

13 “(i) Lease tracts located on portions  
14 of the Gulf of Mexico OCS Region com-  
15 pletely within 125 miles of any coastline  
16 that are available for leasing under the  
17 2002–2007 5-Year Oil and Gas Leasing  
18 Program in effect prior to the date of the  
19 enactment of the Ocean State Options Act  
20 of 2005.

21 “(ii) Lease tracts in production prior  
22 to January 1, 2006, completely within 125  
23 miles of any coastline located on portions  
24 of the OCS that were not available for  
25 leasing under the 2002–2007 5-Year OCS

1 Oil and Gas Leasing Program in effect  
2 prior to the date of the enactment of the  
3 Ocean State Options Act of 2005.

4 “(iii) Lease tracts for which leases are  
5 issued prior to January 1, 2006, located in  
6 the Alaska OCS Region completely within  
7 125 miles of the coastline.

8 “(B) The Secretary shall share the fol-  
9 lowing percentages of OCS Receipts from the  
10 leases described in subparagraph (A) derived  
11 during the fiscal year indicated:

12 “(i) For fiscal year 2011, 4.5 percent.

13 “(ii) For fiscal year 2012, 5.0 per-  
14 cent.

15 “(iii) For fiscal year 2013, 5.5 per-  
16 cent.

17 “(iv) For fiscal year 2014, 6.0 per-  
18 cent.

19 “(v) For fiscal year 2015, 6.5 percent.

20 “(vi) For fiscal year 2016, 7.5 per-  
21 cent.

22 “(vii) For fiscal year 2017, 10.0 per-  
23 cent.

24 “(viii) For fiscal year 2018, 12.5 per-  
25 cent.

1           “(ix) For fiscal year 2019, 15.0 per-  
2 cent.

3           “(x) For fiscal year 2020, 17.5 per-  
4 cent.

5           “(xi) For fiscal year 2021, 20.0 per-  
6 cent.

7           “(xii) For fiscal year 2022, 22.5 per-  
8 cent.

9           “(xiii) For fiscal year 2023, 25.0 per-  
10 cent.

11           “(xiv) For fiscal year 2024, 27.5 per-  
12 cent.

13           “(xv) For fiscal year 2025, 30.0 per-  
14 cent.

15           “(xvi) For fiscal year 2026, 32.5 per-  
16 cent.

17           “(xvii) For fiscal year 2027, 35.0 per-  
18 cent.

19           “(xviii) For fiscal year 2028, 37.5  
20 percent.

21           “(xix) For fiscal year 2029 and each  
22 subsequent fiscal year, 40.0 percent.

23           “(3) RECEIPTS SHARING BEGINNING JANUARY  
24 1, 2006.—Beginning January 1, 2006, the Secretary  
25 shall share 40 percent of OCS Receipts derived on

1 and after January 1, 2006, from all leases located  
2 completely within 125 miles of any coastline not in-  
3 cluded within the provisions of paragraph (2) or the  
4 receipts sharing provisions of section 8(g).

5 “(4) ALLOCATIONS.—The Secretary shall allo-  
6 cate the OCS Receipts deposited into the separate  
7 account established by paragraph (1) that are  
8 shared under paragraphs (2) and (3) as follows:

9 “(A) BONUS BIDS.—Deposits derived from  
10 bonus bids from a leased tract, including inter-  
11 est thereon, shall be allocated at the end of  
12 each fiscal year as follows:

13 “(i) 87.5 percent to the Adjacent  
14 State.

15 “(ii) 6.25 percent into the Treasury,  
16 which shall be allocated to the account es-  
17 tablished by section 6514 of the Ocean  
18 State Options Act of 2005.

19 “(iii) 5 percent into the account es-  
20 tablished by section 6523 of the Ocean  
21 State Options Act of 2005.

22 “(iv) 1.25 percent into the account es-  
23 tablished by section 6526 of the Ocean  
24 State Options Act of 2005.

1           “(B) ROYALTIES.—Deposits derived from  
2 royalties from a leased tract, including interest  
3 thereon, shall be allocated at the end of each  
4 fiscal year as follows:

5           “(i) 87.5 percent to the Adjacent  
6 State and any other producing State or  
7 States with a leased tract within its Adja-  
8 cent Zone within 125 miles of its coastline  
9 that generated royalties during the fiscal  
10 year, if the other producing or States have  
11 a coastline point within 300 miles of any  
12 portion of the leased tract, in which case  
13 the amount allocated for the leased tract  
14 shall be—

15           “(I) one-third to the Adjacent  
16 State; and

17           “(II) two-thirds to each pro-  
18 ducing State, including the Adjacent  
19 State, inversely proportional to the  
20 distance between the nearest point on  
21 the coastline of the producing State  
22 and the geographic center of the  
23 leased tract.

24           “(ii) 6.25 percent into the Treasury,  
25 which shall be allocated to the account es-

1                   tablished by section 6514 of the Ocean  
2                   State Options Act of 2005.

3                   “(iii) 5 percent into the account es-  
4                   tablished by section 6523 of the Ocean  
5                   State Options Act of 2005.

6                   “(iv) 1.25 percent into the account es-  
7                   tablished by section 6526 of the Ocean  
8                   State Options Act of 2005.

9                   “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS  
10 PARTIALLY OR COMPLETELY BEYOND 125 MILES OF THE  
11 COASTLINE.—

12                   “(1) DEPOSIT.—The Secretary shall deposit  
13                   into a separate account in the Treasury the portion  
14                   of OCS Receipts for each fiscal year that will be  
15                   shared under paragraphs (2) and (3).

16                   “(2) RECEIPTS SHARING BEGINNING OCTOBER  
17                   1, 2010.—

18                   “(A) Beginning October 1, 2010, the Sec-  
19                   retary shall share OCS Receipts derived from  
20                   the following areas:

21                   “(i) Lease tracts located on portions  
22                   of the Gulf of Mexico OCS Region partially  
23                   or completely beyond 125 miles of any  
24                   coastline that are available for leasing  
25                   under the 2002–2007 5-Year Oil and Gas

1 Leasing Program in effect prior to the  
2 date of enactment of the Ocean State Op-  
3 tions Act of 2005.

4 “(ii) Lease tracts in production prior  
5 to January 1, 2006, partially or completely  
6 beyond 125 miles of any coastline located  
7 on portions of the OCS that were not  
8 available for leasing under the 2002–2007  
9 5-Year OCS Oil and Gas Leasing Program  
10 in effect prior to the date of enactment of  
11 the Ocean State Options Act of 2005.

12 “(iii) Lease tracts for which leases are  
13 issued prior to January 1, 2006, located in  
14 the Alaska OCS Region partially or com-  
15 pletely beyond 125 miles of the coastline.

16 “(B) The Secretary shall share the fol-  
17 lowing percentages of OCS Receipts from the  
18 leases described in subparagraph (A) derived  
19 during the fiscal year indicated:

20 “(i) For fiscal year 2011, 4.5 percent.

21 “(ii) For fiscal year 2012, 5.0 per-  
22 cent.

23 “(iii) For fiscal year 2013, 5.5 per-  
24 cent.

1                   “(iv) For fiscal year 2014, 6.0 per-  
2 cent.

3                   “(v) For fiscal year 2015, 6.5 percent.

4                   “(vi) For fiscal year 2016, 7.5 per-  
5 cent.

6                   “(vii) For fiscal year 2017, 10.0 per-  
7 cent.

8                   “(viii) For fiscal year 2018, 12.5 per-  
9 cent.

10                  “(ix) For fiscal year 2019, 15.0 per-  
11 cent.

12                  “(x) For fiscal year 2020, 17.5 per-  
13 cent.

14                  “(xi) For fiscal year 2021, 20.0 per-  
15 cent.

16                  “(xii) For fiscal year 2022, 22.5 per-  
17 cent.

18                  “(xiii) For fiscal year 2023, 25.0 per-  
19 cent.

20                  “(xiv) For fiscal year 2024, 27.5 per-  
21 cent.

22                  “(xv) For fiscal year 2025, 30.0 per-  
23 cent.

24                  “(xvi) For fiscal year 2026, 32.5 per-  
25 cent.

1           “(xvii) For fiscal year 2027, 35.0 per-  
2 cent.

3           “(xviii) For fiscal year 2028, 37.5  
4 percent.

5           “(xix) For fiscal year 2029 and each  
6 subsequent fiscal year, 40.0 percent.

7           “(3) RECEIPTS SHARING BEGINNING JANUARY  
8 1, 2006.—Beginning January 1, 2006, the Secretary  
9 shall share 40 percent of OCS Receipts derived on  
10 and after January 1, 2006, from all leases located  
11 partially or completely beyond 125 miles of any  
12 coastline not included within the provisions of para-  
13 graph (2).

14           “(4) ALLOCATIONS.—The Secretary shall allo-  
15 cate the OCS Receipts deposited into the separate  
16 account established by paragraph (1) that are  
17 shared under paragraphs (2) and (3) as follows:

18           “(A) BONUS BIDS.—Deposits derived from  
19 bonus bids from a leased tract, including inter-  
20 est thereon, shall be allocated at the end of  
21 each fiscal year as follows:

22           “(i) 87.5 percent to the Adjacent  
23 State.

24           “(ii) 6.25 percent into the Treasury,  
25 which shall be allocated to the account es-

1           tablISHED by section 6514 of the Ocean  
2           State Options Act of 2005.

3           “(iii) 5 percent into the account es-  
4           tablISHED by section 6523 of the Ocean  
5           State Options Act of 2005.

6           “(iv) 1.25 percent into the account es-  
7           tablISHED by section 6526 of the Ocean  
8           State Options Act of 2005.

9           “(B) ROYALTIES.—Deposits derived from  
10          royalties from a leased tract, including interest  
11          thereon, shall be allocated at the end of each  
12          fiscal year as follows:

13           “(i) 87.5 percent to the Adjacent  
14          State and any other producing State or  
15          States with a leased tract within its Adja-  
16          cent Zone partially or completely beyond  
17          125 miles of its coastline that generated  
18          royalties during the fiscal year, if the other  
19          producing State or States have a coastline  
20          point within 300 miles of any portion of  
21          the leased tract, in which case the amount  
22          allocated for the leased tract shall be—

23           “(I) one-third to the Adjacent  
24          State; and

1           “(II) two-thirds to each pro-  
2           ducing State, including the Adjacent  
3           State, inversely proportional to the  
4           distance between the nearest point on  
5           the coastline of the producing State  
6           and the geographic center of the  
7           leased tract.

8           “(ii) 6.25 percent into the account es-  
9           tablished by section 6514 of the Ocean  
10          State Options Act of 2005.

11          “(iii) 5 percent into the account es-  
12          tablished by section 6523 of the Ocean  
13          State Options Act of 2005.

14          “(iv) 1.25 percent into the account es-  
15          tablished by section 6526 of the Ocean  
16          State Options Act of 2005.

17          “(d) SPECIAL RECEIPTS SHARING.—

18                 “(1) DEPOSIT.—The Secretary shall deposit  
19                 into a separate account in the Treasury the portion  
20                 of OCS Receipts for each fiscal year that will be  
21                 shared under paragraphs (2) and (3).

22                 “(2) EXCESS NEW PROGRAM RECEIPTS.—

23                         “(A) REQUIREMENT.—Beginning January  
24                         1, 2006, and continuing through September 30,  
25                         2015, if the total amount of OCS receipts in a

1 fiscal year derived from leases included within  
2 the sharing provisions of subsections (b)(3) and  
3 (c)(3) exceeds the amount specified in subpara-  
4 graph (B), the Secretary shall share 60 percent  
5 of the difference between such total amount and  
6 the amount specified in subparagraph (B).

7 “(B) TOTAL AMOUNT SPECIFIED.—The  
8 amount specified in this subparagraph is the  
9 following:

10 “(i) For fiscal year 2006, \$0.

11 “(ii) For fiscal year 2007,  
12 \$498,000,000.

13 “(iii) For fiscal year 2008,  
14 \$260,000,000.

15 “(iv) For fiscal year 2009,  
16 \$322,000,000.

17 “(v) For fiscal year 2010,  
18 \$140,000,000.

19 “(vi) For fiscal year 2011,  
20 \$93,000,000.

21 “(vii) For fiscal year 2012,  
22 \$25,000,000.

23 “(viii) For fiscal year 2013,  
24 \$540,000,000.

1                   “(ix) For fiscal year 2014,  
2                   \$342,000,000.

3                   “(x) For fiscal year 2015,  
4                   \$481,000,000.

5                   “(3) EXTRA NEW PROGRAM AREA RECEIPTS.—  
6                   Beginning October 1, 2015, and continuing there-  
7                   after through September 30, 2029, the Secretary  
8                   shall share an additional 20 percent of OCS Re-  
9                   ceipts derived from leases included within the shar-  
10                  ing provisions of subsections (b)(3) and (c)(3) that  
11                  were not already shared under those provisions.

12                  “(4) ALLOCATIONS.—The Secretary shall allo-  
13                  cate the OCS Receipts deposited into the separate  
14                  account established by paragraph (1) that are  
15                  shared under the provisions of paragraphs (2) and  
16                  (3) among all producing States, which shall be allo-  
17                  cated to each producing State based on the ratio  
18                  that—

19                         “(A) OCS Receipts derived from all leased  
20                         tracts on the Federal outer Continental Shelf  
21                         that are completely within 300 miles of the  
22                         coastline of the producing State for the fiscal  
23                         year, bears to

24                         “(B) OCS Receipts derived from all leased  
25                         tracts on the Federal outer Continental Shelf

1           that are completely within 300 miles of the  
2           coastlines of all producing States for the fiscal  
3           year.

4           “(e) TRANSMISSION OF ALLOCATIONS.—

5           “(1) IN GENERAL.—Not later than 90 days  
6           after the end of each fiscal year, the Secretary shall  
7           transmit—

8           “(A) to each State two-thirds of such  
9           State’s allocations under subsections  
10          (b)(4)(A)(i),      (b)(4)(B)(i),      (c)(4)(A)(i),  
11          (c)(4)(B)(i), and (d)(4) for the immediate prior  
12          fiscal year;

13          “(B) to coastal county-equivalent and mu-  
14          nicipal political subdivisions of such State a  
15          total of one-third of such State’s allocations  
16          under subsections (b)(4)(A)(i), (b)(4)(B)(i),  
17          (c)(4)(A)(i), (c)(4)(B)(i), and (d)(4), together  
18          with all accrued interest thereon; and

19          “(C) the remaining allocations under sub-  
20          sections (b)(4) and (c)(4), together with all ac-  
21          crued interest thereon.

22          “(2) ALLOCATIONS TO COASTAL COUNTY-  
23          EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-  
24          retary shall make an initial allocation of the OCS

1 Receipts to be shared under paragraph (1)(B) as fol-  
2 lows:

3 “(A) 25 percent shall be allocated based on  
4 the ratio of such coastal county-equivalent polit-  
5 ical subdivision’s population to the coastal pop-  
6 ulation of all coastal county-equivalent political  
7 subdivisions in the State.

8 “(B) 25 percent shall be allocated based on  
9 the ratio of such coastal county-equivalent polit-  
10 ical subdivision’s coastline miles to the coastline  
11 miles of all coastal county-equivalent political  
12 subdivisions in the State as calculated by the  
13 Secretary. In such calculations, coastal county-  
14 equivalent political subdivisions without a coast-  
15 line shall be considered to have 50 percent of  
16 the average coastline miles of the coastal coun-  
17 ty-equivalent political subdivisions that do have  
18 coastlines.

19 “(C) 25 percent shall be allocated to all  
20 coastal county-equivalent political subdivisions  
21 having a coastline point within 300 miles of the  
22 leased tract for which OCS Receipts are being  
23 shared based on a formula that allocates the  
24 funds based on such coastal county-equivalent

1 political subdivision's relative distance from the  
2 leased tract.

3 “(D) 25 percent shall be allocated to all  
4 coastal county-equivalent political subdivisions  
5 having a coastline point within 300 miles of the  
6 leased tract for which OCS Receipts are being  
7 shared based on the relative level of outer Con-  
8 tinental Shelf oil and gas activities in a coastal  
9 political subdivision compared to the level of  
10 outer Continental Shelf activities in all coastal  
11 political subdivisions in the State. The Sec-  
12 retary shall define the term ‘outer Continental  
13 Shelf oil and gas activities’ for purposes of this  
14 subparagraph to include, but not be limited to,  
15 construction of vessels, drillships, and platforms  
16 involved in exploration, production, and develop-  
17 ment on the outer Continental Shelf; support  
18 and supply bases, ports, and related activities;  
19 offices of geologists, geophysicists, engineers,  
20 and other professionals involved in support of  
21 exploration, production, and development of oil  
22 and gas on the outer Continental Shelf; pipe-  
23 lines and other means of transporting oil and  
24 gas production from the outer Continental  
25 Shelf; and processing and refining of oil and

1 gas production from the outer Continental  
2 Shelf. For purposes of this subparagraph, if a  
3 coastal county-equivalent political subdivision  
4 does not have a coastline, its coastal point shall  
5 be the point on the coastline closest to it.

6 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-  
7 LITICAL SUBDIVISIONS.—The initial allocation to  
8 each coastal county-equivalent political subdivision  
9 under paragraph (2) shall be further allocated to the  
10 coastal county-equivalent political subdivision and  
11 any coastal municipal political subdivisions located  
12 partially or wholly within the boundaries of the  
13 coastal county-equivalent political subdivision as fol-  
14 lows:

15 “(A) One-third shall be allocated to the  
16 coastal county-equivalent political subdivision.

17 “(B) Two-thirds shall be allocated on a per  
18 capita basis to the municipal political subdivi-  
19 sions and the county-equivalent political sub-  
20 division, with the allocation to the latter based  
21 upon its population not included within the  
22 boundaries of a municipal political subdivision.

23 “(f) INVESTMENT OF DEPOSITS.—Amounts depos-  
24 ited under this section shall be invested by the Secretary  
25 of the Treasury in securities backed by the full faith and

1 credit of the United States having maturities suitable to  
2 the needs of the account in which they are deposited and  
3 yielding the highest reasonably available interest rates as  
4 determined by the Secretary of the Treasury.

5 “(g) USE OF FUNDS.—A recipient of funds under  
6 this section may use the funds for one or more of the fol-  
7 lowing:

8 “(1) To reduce in-State college tuition at public  
9 institutions of higher learning and otherwise support  
10 public education, including career technical edu-  
11 cation.

12 “(2) To make transportation infrastructure im-  
13 provements.

14 “(3) To reduce taxes.

15 “(4) To promote and provide for—

16 “(A) coastal or environmental restoration;

17 “(B) fish, wildlife, and marine life habitat  
18 enhancement;

19 “(C) waterways maintenance;

20 “(D) shore protection; and

21 “(E) marine and oceanographic education  
22 and research.

23 “(5) To improve infrastructure associated with  
24 energy production activities conducted on the outer  
25 Continental Shelf.

1           “(6) To fund energy demonstration projects  
2           and supporting infrastructure for energy projects.

3           “(7) For any other purpose as determined by  
4           State law.

5           “(h) NO ACCOUNTING REQUIRED.—No recipient of  
6 funds under this section shall be required to account to  
7 the Federal Government for the expenditure of such  
8 funds, except as otherwise may be required by law. Fur-  
9 ther, funds allocated under this section to States and polit-  
10 ical subdivisions may be used as matching funds for other  
11 Federal programs.

12          “(i) EFFECT OF FUTURE LAWS.—Enactment of any  
13 future Federal statute that has the effect, as determined  
14 by the Secretary, of restricting any Federal agency from  
15 spending appropriated funds, or otherwise preventing it  
16 from fulfilling its pre-existing responsibilities as of the  
17 date of enactment of the statute, unless such responsibil-  
18 ities have been reassigned to another Federal agency by  
19 the statute with no prevention of performance, to issue  
20 any permit or other approval impacting on the OCS oil  
21 and gas leasing program, or any lease issued thereunder,  
22 or to implement any provision of this Act shall automati-  
23 cally prohibit any sharing of OCS Receipts under this sec-  
24 tion directly with the States, and their coastal political  
25 subdivisions, for the duration of the restriction. The Sec-

1 retary shall make the determination of the existence of  
2 such restricting effects within 30 days of a petition by any  
3 outer Continental Shelf lessee or producing State.

4 “(j) DEFINITIONS.—In this section:

5 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL  
6 SUBDIVISION.—The term ‘coastal county-equivalent  
7 political subdivision’ means a political jurisdiction  
8 immediately below the level of State government, in-  
9 cluding a county, parish, borough in Alaska, inde-  
10 pendent municipality not part of a county, parish, or  
11 borough in Alaska, or other equivalent subdivision of  
12 a coastal State, that lies within the coastal zone.

13 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-  
14 SION.—The term ‘coastal municipal political subdivi-  
15 sion’ means a municipality located within and part  
16 of a county, parish, borough in Alaska, or other  
17 equivalent subdivision of a State, all or part of which  
18 coastal municipal political subdivision lies within the  
19 coastal zone.

20 “(3) COASTAL POPULATION.—The term ‘coastal  
21 population’ means the population of all coastal coun-  
22 ty-equivalent political subdivisions, as determined by  
23 the most recent official data of the Census Bureau.

24 “(4) COASTAL ZONE.—The term ‘coastal zone’  
25 means that portion of a coastal State, including the

1 entire territory of any coastal county-equivalent po-  
2 litical subdivision at least a part of which lies, within  
3 75 miles landward from the coastline.

4 “(5) BONUS BIDS.—The term ‘bonus bids’  
5 means all funds received by the Secretary to issue  
6 an outer Continental Shelf minerals lease.

7 “(6) ROYALTIES.—The term ‘royalties’ means  
8 all funds received by the Secretary from production  
9 of oil or natural gas, or the sale of production taken  
10 in-kind, from an outer Continental Shelf minerals  
11 lease.

12 “(7) PRODUCING STATE.—The term ‘producing  
13 State’ means an Adjacent State having an Adjacent  
14 Zone containing leased tracts from which OCS Re-  
15 ceipts were derived.

16 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’  
17 means bonus bids and royalties.”.

18 **SEC. 6508. REVIEW OF OUTER CONTINENTAL SHELF EXPLO-**  
19 **RATION PLANS.**

20 Subsections (c) and (d) of section 11 of the Outer  
21 Continental Shelf Lands Act (43 U.S.C. 1340) are amend-  
22 ed to read as follows:

23 “(c) PLAN REVIEW; PLAN PROVISIONS.—

24 “(1) Except as otherwise provided in this Act,  
25 prior to commencing exploration pursuant to any oil

1 and gas lease issued or maintained under this Act,  
2 the holder thereof shall submit an exploration plan  
3 (hereinafter in this section referred to as a 'plan') to  
4 the Secretary for review which shall include all infor-  
5 mation and documentation required under para-  
6 graphs (2) and (3). The Secretary shall review the  
7 plan for completeness within 10 days of submission.  
8 If the Secretary finds that the plan is not complete,  
9 the Secretary shall notify the lessee with a detailed  
10 explanation and require such modifications of such  
11 plan as are necessary to achieve completeness. The  
12 Secretary shall have 10 days to review a modified  
13 plan for completeness. Such plan may apply to more  
14 than one lease held by a lessee in any one region of  
15 the outer Continental Shelf, or by a group of lessees  
16 acting under a unitization, pooling, or drilling agree-  
17 ment, and the lessee shall certify that such plan is  
18 consistent with the terms of the lease and is con-  
19 sistent with all statutory and regulatory require-  
20 ments in effect on the date of issuance of the lease.  
21 The Secretary shall have 30 days from the date the  
22 plan is deemed complete to conduct a review of the  
23 plan. If the Secretary finds the plan is not con-  
24 sistent with the lease and all such statutory and reg-  
25 ulatory requirements, the Secretary shall notify the

1 lessee with a detailed explanation of such modifica-  
2 tions of such plan as are necessary to achieve com-  
3 pliance. The Secretary shall have 30 days to review  
4 any modified plan submitted by the lessee. The les-  
5 see shall not take any action under the exploration  
6 plan within the 30-day review period, or thereafter  
7 until the plan has been modified to achieve compli-  
8 ance as so notified.

9 “(2) An exploration plan submitted under this  
10 subsection shall include, in the degree of detail  
11 which the Secretary may by regulation require—

12 “(A) a schedule of anticipated exploration  
13 activities to be undertaken;

14 “(B) a description of equipment to be used  
15 for such activities;

16 “(C) the general location of each well to be  
17 drilled; and

18 “(D) such other information deemed perti-  
19 nent by the Secretary.

20 “(3) The Secretary may, by regulation, require  
21 that such plan be accompanied by a general state-  
22 ment of development and production intentions  
23 which shall be for planning purposes only and which  
24 shall not be binding on any party.

1       “(d) PLAN REVISIONS; CONDUCT OF EXPLORATION  
2 ACTIVITIES.—

3               “(1) If a significant revision of an exploration  
4 plan under this subsection is submitted to the Sec-  
5 retary, the process to be used for the review of such  
6 revision shall be the same as set forth in subsection  
7 (c) of this section.

8               “(2) All exploration activities pursuant to any  
9 lease shall be conducted in accordance with an explo-  
10 ration plan or a revised plan which has been sub-  
11 mitted to and reviewed by the Secretary.”.

12 **SEC. 6509. RESERVATION OF LANDS AND RIGHTS.**

13       Section 12 of the Outer Continental Shelf Lands Act  
14 (43 U.S.C. 1341) is amended—

15               (1) in subsection (a) by adding at the end the  
16 following: “The President may partially or com-  
17 pletely revise or revoke any prior withdrawal made  
18 by the President under the authority of this section.  
19 The President may not revise or revoke a withdrawal  
20 that was initiated by a petition from a State and ap-  
21 proved by the Secretary of the Interior under sub-  
22 section (h). A withdrawal by the President may be  
23 for a term not to exceed 10 years. In considering a  
24 potential withdrawal under this subsection, to the  
25 maximum extent practicable the President shall ac-

1       commodate competing interests and potential uses of  
2       the outer Continental Shelf.”;

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

4       “(g) OPTION TO PETITION FOR LEASING WITHIN  
5 CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—

6               “(1) PROHIBITION AGAINST LEASING.—Except  
7       as otherwise provided in this subsection, prior to  
8       June 30, 2012, the Secretary shall not offer for leas-  
9       ing for oil and gas, or for natural gas, any area  
10      withdrawn from disposition by leasing in the Atlan-  
11      tic OCS Region or the Pacific OCS Region, or the  
12      Gulf of Mexico OCS Region Eastern Planning Area,  
13      as depicted on the map referred to within this para-  
14      graph, under the ‘Memorandum on Withdrawal of  
15      Certain Areas of the United States Outer Conti-  
16      nental Shelf from Leasing Disposition’, 34 Weekly  
17      Comp. Pres. Doc. 1111, dated June 12, 1998, or  
18      any area not withdrawn under that Memorandum  
19      that is included within the Gulf of Mexico OCS Re-  
20      gion Eastern Planning Area as indicated on the map  
21      entitled ‘Gulf of Mexico OCS Region State Adjacent  
22      Zones and OCS Planning Areas’ or within the Flor-  
23      ida Straits Planning Area as indicated on the map  
24      entitled ‘Atlantic OCS Region State Adjacent Zones  
25      and OCS Planning Areas’, both of which are dated

1 September 2005 and on file in the Office of the Di-  
2 rector, Minerals Management Service.

3 “(2) REVOCATION OF WITHDRAWAL.—The pro-  
4 visions of the ‘Memorandum on Withdrawal of Cer-  
5 tain Areas of the United States Outer Continental  
6 Shelf from Leasing Disposition’, 34 Weekly Comp.  
7 Pres. Doc. 1111, dated June 12, 1998, are hereby  
8 revoked and are no longer in effect regarding any  
9 areas included within the Gulf of Mexico OCS Re-  
10 gion Central Planning Area as indicated on the map  
11 entitled ‘Gulf of Mexico OCS Region State Adjacent  
12 Zones and OCS Planning Areas’ dated September  
13 2005 and on file in the Office of the Director, Min-  
14 erals Management Service. The 2002–2007 5-Year  
15 Outer Continental Shelf Oil and Gas Leasing Pro-  
16 gram is hereby amended to include the areas added  
17 to the Gulf of Mexico OCS Region Central Planning  
18 Area by this Act to the extent that such areas were  
19 included within the original boundaries of proposed  
20 Lease Sale 181. The amendment to such leasing  
21 program includes two sales in such additional areas,  
22 one of which shall be held in January 2007 and one  
23 of which shall be held in June 2007. The Final En-  
24 vironmental Impact Statement prepared for this  
25 area for Lease Sale 181 shall be deemed sufficient

1 for all purposes for each lease sale in which such  
2 area is offered for lease during the 2002–2007 5-  
3 Year Outer Continental Shelf Oil and Gas Leasing  
4 Program without need for supplementation. Any  
5 tract only partially added to the Gulf of Mexico OCS  
6 Region Central Planning Area by this Act shall be  
7 eligible for leasing of the part of such tract that is  
8 included within the Gulf of Mexico OCS Region Cen-  
9 tral Planning Area, and the remainder of such tract  
10 that lies outside of the Gulf of Mexico OCS Region  
11 Central Planning Area may be developed and pro-  
12 duced by the lessee of such partial tract using ex-  
13 tended reach or similar drilling from a location on  
14 a leased area.

15 “(3) PETITION FOR LEASING.—

16 “(A) IN GENERAL.—The Governor of the  
17 State, upon concurrence of its legislature, may  
18 submit to the Secretary a petition requesting  
19 that the Secretary make available any area that  
20 is within the State’s Adjacent Zone, included  
21 within the provisions of paragraph (1), and that  
22 (i) is greater than 25 miles from any point on  
23 the coastline of a Neighboring State for the  
24 conduct of offshore leasing, pre-leasing, and re-  
25 lated activities with respect to natural gas leas-

1           ing; or (ii) is greater than 50 miles from any  
2           point on the coastline of a Neighboring State  
3           for the conduct of offshore leasing, pre-leasing,  
4           and related activities with respect to oil and gas  
5           leasing. The Adjacent State may also petition  
6           for leasing any other area within its Adjacent  
7           Zone if leasing is allowed in the similar area of  
8           the Adjacent Zone of the applicable Neigh-  
9           boring State, or if not allowed, if the Neigh-  
10          boring State, acting through its Governor, ex-  
11          presses its concurrence with the petition. The  
12          Secretary shall only consider such a petition  
13          upon making a finding that leasing is allowed  
14          in the similar area of the Adjacent Zone of the  
15          applicable Neighboring State or upon receipt of  
16          the concurrence of the Neighboring State. The  
17          date of receipt by the Secretary of such concur-  
18          rence by the Neighboring State shall constitute  
19          the date of receipt of the petition for that area  
20          for which the concurrence applies. A petition  
21          for leasing any part of the Alabama Adjacent  
22          Zone that is a part of the Gulf of Mexico East-  
23          ern Planning Area, as indicated on the map en-  
24          titled ‘Gulf of Mexico OCS Region State Adja-  
25          cent Zones and OCS Planning Areas’ which is

1           dated September 2005 and on file in the Office  
2           of the Director, Minerals Management Service,  
3           shall require the concurrence of both Alabama  
4           and Florida.

5           “(B) LIMITATIONS ON LEASING.—In its  
6           petition, a State with an Adjacent Zone that  
7           contains leased tracts may condition oil and  
8           gas, or natural gas, new leasing for tracts with-  
9           in 25 miles of the coastline by—

10                   “(i) requiring a net reduction in the  
11                   number of production platforms;

12                   “(ii) requiring a net increase in the  
13                   average distance of production platforms  
14                   from the coastline;

15                   “(iii) limiting permanent surface occu-  
16                   pancy on new leases to areas that are more  
17                   than 10 miles from the coastline;

18                   “(iv) limiting some tracts to being  
19                   produced from shore or from platforms lo-  
20                   cated on other tracts; or

21                   “(v) other conditions that the Adja-  
22                   cent State may deem appropriate as long  
23                   as the Secretary does not determine that  
24                   production is made economically or tech-

1           nically impracticable or otherwise impos-  
2           sible.

3           “(C) ACTION BY SECRETARY.—Not later  
4           than 90 days after receipt of a petition under  
5           subparagraph (A), the Secretary shall approve  
6           the petition, unless the Secretary determines  
7           that leasing the area would probably cause seri-  
8           ous harm or damage to the marine resources of  
9           the State’s Adjacent Zone. Prior to approving  
10          the petition, the Secretary shall complete an en-  
11          vironmental assessment that documents the an-  
12          ticipated environmental effects of leasing in the  
13          area included within the scope of the petition.

14          “(D) FAILURE TO ACT.—If the Secretary  
15          fails to approve or deny a petition in accordance  
16          with subparagraph (C) the petition shall be con-  
17          sidered to be approved 90 days after receipt of  
18          the petition.

19          “(E) AMENDMENT OF THE 5-YEAR LEAS-  
20          ING PROGRAM.—Notwithstanding section 18,  
21          within 180 days of the approval of a petition  
22          under subparagraph (C) or (D), the Secretary  
23          shall amend the current 5-Year Outer Conti-  
24          nental Shelf Oil and Gas Leasing Program to  
25          include a lease sale or sales for the entire area

1 covered by the approved petition, unless there  
2 are, from the date of approval, fewer than 12  
3 months remaining in the current 5-Year Leas-  
4 ing Program in which case the Secretary shall  
5 include the areas covered by the approved peti-  
6 tion within lease sales under the next 5-Year  
7 Leasing Program. For purposes of amending  
8 the 5-Year Program in accordance with this  
9 section, further consultations with States shall  
10 not be required. The environmental assessment  
11 performed under the provisions of the National  
12 Environmental Policy Act of 1969 to assess the  
13 effects of approving the petition shall be suffi-  
14 cient to amend the 5-Year Leasing Program.

15 “(h) OPTION TO PETITION FOR EXTENSION OF  
16 WITHDRAWAL FROM LEASING WITHIN CERTAIN AREAS  
17 OF THE OUTER CONTINENTAL SHELF.—

18 “(1) IN GENERAL.—The Governor of the State,  
19 upon the concurrence of its legislature, may submit  
20 to the Secretary petitions requesting that the Sec-  
21 retary extend for a period of time of up to 5 years  
22 for each petition the withdrawal from leasing for all  
23 or part of any area within the State’s Adjacent Zone  
24 within 125 miles of the coastline that is subject to  
25 subsection (g)(1). A State may petition multiple

1 times for any particular area but not more than  
2 once per calendar year for any particular area. A  
3 State must submit separate petitions, with separate  
4 votes by its legislature, for areas within 50 miles of  
5 the coastline, areas more than 50 miles but not ex-  
6 ceeding 100 miles from the coastline, and areas ex-  
7 ceeding 100 miles but not exceeding 125 miles from  
8 the coastline. A petition of a State may apply to ei-  
9 ther oil and gas leasing or natural gas leasing, or  
10 both, and may request some areas to be withdrawn  
11 from all leasing and some areas to be withdrawn  
12 only from one type of leasing. A petition for extend-  
13 ing the withdrawal from leasing of any part of the  
14 Alabama Adjacent Zone that is a part of the Gulf  
15 of Mexico OCS Region Eastern Planning Area, as  
16 indicated on the map entitled ‘Gulf of Mexico OCS  
17 Region State Adjacent Zones and OCS Planning  
18 Areas’ which is dated September 2005 and on file in  
19 the Office of the Director, Minerals Management  
20 Service, may be made by either Alabama or Florida.

21 “(2) ACTION BY SECRETARY.—The Secretary  
22 shall perform an environmental assessment under  
23 the National Environmental Policy Act of 1969 to  
24 assess the effects of approving the petition under  
25 paragraph (1). Not later than 90 days after receipt

1 of the petition, the Secretary shall approve the peti-  
2 tion, unless the Secretary determines that extending  
3 the withdrawal from leasing would probably cause  
4 serious harm or damage to the marine resources of  
5 the State's Adjacent Zone. The Secretary shall not  
6 approve a petition from a State that extends the re-  
7 maining period of a withdrawal of an area from leas-  
8 ing for a total of more than 10 years. However, the  
9 Secretary may approve petitions to extend the with-  
10 drawal from leasing of any area ad infinitum, sub-  
11 ject only to the limitations contained in this sub-  
12 section.

13 “(3) FAILURE TO ACT.—If the Secretary fails  
14 to approve or deny a petition in accordance with  
15 paragraph (2) the petition shall be considered to be  
16 approved 90 days after receipt of the petition.”.

17 **SEC. 6510. OUTER CONTINENTAL SHELF LEASING PRO-**  
18 **GRAM.**

19 Section 18 of the Outer Continental Shelf Lands Act  
20 (43 U.S.C. 1344) is amended—

21 (1) in subsection (a), by adding at the end of  
22 paragraph (3) the following: “The Secretary shall, in  
23 each 5-year program, include lease sales that when  
24 viewed as a whole propose to offer for oil and gas  
25 or natural gas leasing at least 75 percent of the

1 available unleased acreage within each OCS Plan-  
2 ning Area. Available unleased acreage is that portion  
3 of the outer Continental Shelf that is not under  
4 lease at the time of the proposed lease sale, and has  
5 not otherwise been made unavailable for leasing by  
6 law.”;

7 (2) in subsection (c), by striking so much as  
8 precedes paragraph (3) and inserting the following:

9 “(c)(1) During the preparation of any proposed leas-  
10 ing program under this section, the Secretary shall con-  
11 sider and analyze leasing throughout the entire Outer  
12 Continental Shelf without regard to any other law affect-  
13 ing such leasing. During this preparation the Secretary  
14 shall invite and consider suggestions from any interested  
15 Federal agency, including the Attorney General, in con-  
16 sultation with the Federal Trade Commission, and from  
17 the Governor of any coastal State. The Secretary may also  
18 invite or consider any suggestions from the executive of  
19 any local government in a coastal State that have been  
20 previously submitted to the Governor of such State, and  
21 from any other person. Further, the Secretary shall con-  
22 sult with the Secretary of Defense regarding military oper-  
23 ational needs in the outer Continental Shelf. The Sec-  
24 retary shall work with the Secretary of Defense to resolve  
25 any conflicts that might arise regarding offering any area

1 of the outer Continental Shelf for oil and gas or natural  
2 gas leasing. If the Secretaries are not able to resolve all  
3 such conflicts, any unresolved issues shall be elevated to  
4 the President for resolution.

5       “(2) After the consideration and analysis required by  
6 paragraph (1), including the consideration of the sugges-  
7 tions received from any interested Federal agency, the  
8 Federal Trade Commission, the Governor of any coastal  
9 State, any local government of a coastal State, and any  
10 other person, the Secretary shall publish in the Federal  
11 Register a proposed leasing program accompanied by a  
12 draft environmental impact statement prepared pursuant  
13 to the National Environmental Policy Act of 1969. After  
14 the publishing of the proposed leasing program and during  
15 the comment period provided for on the draft environ-  
16 mental impact statement, the Secretary shall submit a  
17 copy of the proposed program to the Governor of each af-  
18 fected State for review and comment. The Governor may  
19 solicit comments from those executives of local govern-  
20 ments in the Governor’s State that the Governor, in the  
21 discretion of the Governor, determines will be affected by  
22 the proposed program. If any comment by such Governor  
23 is received by the Secretary at least 15 days prior to sub-  
24 mission to the Congress pursuant to paragraph (3) and  
25 includes a request for any modification of such proposed

1 program, the Secretary shall reply in writing, granting or  
2 denying such request in whole or in part, or granting such  
3 request in such modified form as the Secretary considers  
4 appropriate, and stating the Secretary's reasons therefor.  
5 All such correspondence between the Secretary and the  
6 Governor of any affected State, together with any addi-  
7 tional information and data relating thereto, shall accom-  
8 pany such proposed program when it is submitted to the  
9 Congress.”; and

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

11 “(i) PROJECTION OF STATE AND LOCAL GOVERN-  
12 MENT SHARES OF OCS RECEIPTS.—Concurrent with the  
13 publication of the scoping notice at the beginning of the  
14 development of each 5-year Outer Continental Shelf oil  
15 and gas leasing program, or as soon thereafter as possible,  
16 the Secretary shall provide to each coastal State, and  
17 coastal political subdivisions thereof, a best-efforts projec-  
18 tion of the OCS Receipts that the Secretary expects will  
19 be shared with each coastal State, and its coastal political  
20 subdivisions, using the assumption that the unleased  
21 tracts within the State's Adjacent Zone are fully made  
22 available for leasing, including long-term projected OCS  
23 Receipts. In addition, the Secretary shall include a macro-  
24 economic estimate of the impact of such leasing on the  
25 national economy and each State's economy, including in-

1 vestment, jobs, revenues, personal income, and other cat-  
2 egories.”.

3 **SEC. 6511. COORDINATION WITH ADJACENT STATES.**

4 Section 19 of the Outer Continental Shelf Lands Act  
5 (43 U.S.C. 1345) is amended—

6 (1) in subsection (a) in the first sentence by in-  
7 serting “, for any tract located within the Adjacent  
8 State’s Adjacent Zone,” after “government”; and

9 (2) by adding the following:

10 “(f)(1) No Federal agency may permit or otherwise  
11 approve, without the concurrence of the Adjacent State,  
12 the construction of a crude oil or petroleum products (or  
13 both) pipeline within the part of the Adjacent State’s Ad-  
14 jacent Zone that is not available by law for oil and gas  
15 or natural gas leasing, except that such a pipeline may  
16 be approved to pass through such Adjacent Zone if at least  
17 50 percent of the production projected to be carried by  
18 the pipeline within its first 10 years of operation is from  
19 areas of the Adjacent States Adjacent Zone.

20 “(2) No State may prohibit the construction within  
21 its Adjacent Zone or its State waters of a natural gas pipe-  
22 line that will transport natural gas produced from the  
23 outer Continental Shelf. However, an Adjacent State may  
24 prevent a proposed natural gas pipeline landing location  
25 if it proposes two alternate landing locations in the Adja-

1 cent State, acceptable to the Adjacent State, located with-  
2 in 50 miles on either side of the proposed landing loca-  
3 tion.”.

4 **SEC. 6512. ENVIRONMENTAL STUDIES.**

5 Section 20(d) of the Outer Continental Shelf Lands  
6 Act (43 U.S.C. 1346) is amended—

7 (1) by inserting “(1)” after “(d)”; and

8 (2) by adding at the end the following:

9 “(2) For all programs, lease sales, leases, and actions  
10 under this Act, the following shall apply regarding the ap-  
11 plication of the National Environmental Policy Act of  
12 1969:

13 “(A) Granting or directing lease suspensions  
14 and the conduct of all preliminary activities on outer  
15 Continental Shelf tracts, including seismic activities,  
16 are categorically excluded from the need to prepare  
17 either an environmental assessment or an environ-  
18 mental impact statement, and it shall not be re-  
19 quired to document why no exceptions to the cat-  
20 egorical exclusion apply for activities conducted  
21 under the authority of this Act.

22 “(B) The environmental impact statement de-  
23 veloped in support of each 5-year oil and gas leasing  
24 program provides the environmental analysis for all  
25 lease sales to be conducted under the program and

1 such sales shall not be subject to further environ-  
2 mental analysis.

3 “(C) Exploration plans shall not be subject to  
4 any requirement to prepare an environmental impact  
5 statement, and the Secretary may find that explo-  
6 ration plans are eligible for categorical exclusion due  
7 to the impacts already being considered within an  
8 environmental impact statement or due to mitigation  
9 measures included within the plan.

10 “(D) Within each OCS Planning Area, after the  
11 preparation of the first development and production  
12 plan environmental impact statement for a leased  
13 tract within the Area, future development and pro-  
14 duction plans for leased tracts within the Area shall  
15 only require the preparation of an environmental as-  
16 sessment unless the most recent development and  
17 production plan environmental impact statement  
18 within the Area was finalized more than 10 years  
19 prior to the date of the approval of the plan, in  
20 which case an environmental impact statement shall  
21 be required.”.

22 **SEC. 6513. REVIEW OF OUTER CONTINENTAL SHELF DEVEL-**  
23 **OPMENT AND PRODUCTION PLANS.**

24 Section 25 of the Outer Continental Shelf Lands Act  
25 (43 U.S.C. 1351(a)) is amended to read as follows:

1 **“SEC. 25. REVIEW OF OUTER CONTINENTAL SHELF DEVEL-**  
2 **OPMENT AND PRODUCTION PLANS.**

3 “(a) DEVELOPMENT AND PRODUCTION PLANS; SUB-  
4 MISSION TO SECRETARY; STATEMENT OF FACILITIES AND  
5 OPERATION; SUBMISSION TO GOVERNORS OF AFFECTED  
6 STATES AND LOCAL GOVERNMENTS.—

7 “(1) Prior to development and production pur-  
8 suant to an oil and gas lease issued on or after Sep-  
9 tember 18, 1978, for any area of the outer Conti-  
10 nental Shelf, or issued or maintained prior to Sep-  
11 tember 18, 1978, for any area of the outer Conti-  
12 nental Shelf, with respect to which no oil or gas has  
13 been discovered in paying quantities prior to Sep-  
14 tember 18, 1978, the lessee shall submit a develop-  
15 ment and production plan (hereinafter in this sec-  
16 tion referred to as a ‘plan’) to the Secretary for re-  
17 view.

18 “(2) A plan shall be accompanied by a state-  
19 ment describing all facilities and operations, other  
20 than those on the outer Continental Shelf, proposed  
21 by the lessee and known by the lessee (whether or  
22 not owned or operated by such lessee) that will be  
23 constructed or utilized in the development and pro-  
24 duction of oil or gas from the lease area, including  
25 the location and site of such facilities and oper-  
26 ations, the land, labor, material, and energy require-

1       ments associated with such facilities and operations,  
2       and all environmental and safety safeguards to be  
3       implemented.

4               “(3) Except for any privileged or proprietary  
5       information (as such term is defined in regulations  
6       issued by the Secretary), the Secretary, within 30  
7       days after receipt of a plan and statement, shall—

8                       “(A) submit such plan and statement to  
9       the Governor of any affected State, and upon  
10      request to the executive of any affected local  
11      government; and

12                      “(B) make such plan and statement avail-  
13      able to any appropriate interstate regional enti-  
14      ty and the public.

15       “(b) DEVELOPMENT AND PRODUCTION ACTIVITIES  
16      IN ACCORDANCE WITH PLAN AS LEASE REQUIREMENT.—  
17      After enactment of the Ocean State Options Act of 2005,  
18      no oil and gas lease may be issued pursuant to this Act  
19      in any region of the outer Continental Shelf, unless such  
20      lease requires that development and production activities  
21      be carried out in accordance with a plan that complies  
22      with the requirements of this section. This section shall  
23      also apply to leases that do not have an approved develop-  
24      ment and production plan as of the date of enactment of  
25      the Ocean State Options Act of 2005.

1       “(c) SCOPE AND CONTENTS OF PLAN.—A plan may  
2 apply to more than one oil and gas lease, and shall set  
3 forth, in the degree of detail established by regulations  
4 issued by the Secretary—

5               “(1) the general work to be performed;

6               “(2) a description of all facilities and operations  
7 located on the outer Continental Shelf that are pro-  
8 posed by the lessee or known by the lessee (whether  
9 or not owned or operated by such lessee) to be di-  
10 rectly related to the proposed development, including  
11 the location and size of such facilities and oper-  
12 ations, and the land, labor, material, and energy re-  
13 quirements associated with such facilities and oper-  
14 ations;

15               “(3) the environmental safeguards to be imple-  
16 mented on the outer Continental Shelf and how such  
17 safeguards are to be implemented;

18               “(4) all safety standards to be met and how  
19 such standards are to be met;

20               “(5) an expected rate of development and pro-  
21 duction and a time schedule for performance; and

22               “(6) such other relevant information as the Sec-  
23 retary may by regulation require.

24       “(d) COMPLETENESS REVIEW OF THE PLAN.—

1           “(1) Prior to commencing any activity under a  
2           development and production plan pursuant to any oil  
3           and gas lease issued or maintained under this Act,  
4           the lessee shall certify that the plan is consistent  
5           with the terms of the lease and that it is consistent  
6           with all statutory and regulatory requirements in ef-  
7           fect on the date of issuance of the lease. The plan  
8           shall include all required information and docu-  
9           mentation required under subsection (c).

10           “(2) The Secretary shall review the plan for  
11           completeness within 30 days of submission. If the  
12           Secretary finds that the plan is not complete, the  
13           Secretary shall notify the lessee with a detailed ex-  
14           planation of such modifications of such plan as are  
15           necessary to achieve completeness. The Secretary  
16           shall have 30 days to review a modified plan for  
17           completeness.

18           “(e) REVIEW FOR CONSISTENCY OF THE PLAN.—

19           “(1) After a determination that a plan is com-  
20           plete, the Secretary shall have 120 days to conduct  
21           a review of the plan, to ensure that it is consistent  
22           with the terms of the lease, and that it is consistent  
23           with all such statutory and regulatory requirements  
24           applicable to the lease. If the Secretary finds that  
25           the plan is not consistent, the Secretary shall notify

1 the lessee with a detailed explanation of such modi-  
2 fications of such plan as are necessary to achieve  
3 consistency.

4 “(2) The Secretary shall have 120 days to re-  
5 view a modified plan.

6 “(3) The lessee shall not conduct any activities  
7 under the plan during any 120-day review period, or  
8 thereafter until the plan has been modified to  
9 achieve compliance as so notified.

10 “(4) After review by the Secretary provided for  
11 by this section, a lessee may operate pursuant to the  
12 plan without further review or approval by the Sec-  
13 retary.

14 “(f) REVIEW OF REVISION OF THE APPROVED  
15 PLAN.—The lessee may submit to the Secretary any revi-  
16 sion of a plan if the lessee determines that such revision  
17 will lead to greater recovery of oil and natural gas, im-  
18 prove the efficiency, safety, and environmental protection  
19 of the recovery operation, is the only means available to  
20 avoid substantial economic hardship to the lessee, or is  
21 otherwise not inconsistent with the provisions of this Act,  
22 to the extent such revision is consistent with protection  
23 of the human, marine, and coastal environments. The  
24 process to be used for the review of any such revision shall  
25 be the same as that set forth in subsections (d) and (e).

1           “(g) CANCELLATION OF LEASE ON FAILURE TO SUB-  
2 MIT PLAN OR COMPLY WITH A PLAN.—Whenever the  
3 owner of any lease fails to submit a plan in accordance  
4 with regulations issued under this section, or fails to com-  
5 ply with a plan, the lease may be canceled in accordance  
6 with section 5(c) and (d). Termination of a lease because  
7 of failure to comply with a plan, including required modi-  
8 fications or revisions, shall not entitle a lessee to any com-  
9 pensation.

10           “(h) PRODUCTION AND TRANSPORTATION OF NAT-  
11 URAL GAS; SUBMISSION OF PLAN TO FEDERAL ENERGY  
12 REGULATORY COMMISSION; IMPACT STATEMENT.—If any  
13 development and production plan submitted to the Sec-  
14 retary pursuant to this section provides for the production  
15 and transportation of natural gas, the lessee shall contem-  
16 poraneously submit to the Federal Energy Regulatory  
17 Commission that portion of such plan that relates to the  
18 facilities for transportation of natural gas. The Secretary  
19 and the Federal Energy Regulatory Commission shall  
20 agree as to which of them shall prepare an environmental  
21 impact statement pursuant to the National Environmental  
22 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable  
23 to such portion of such plan, or conduct studies as to the  
24 effect on the environment of implementing it. Thereafter,  
25 the findings and recommendations by the agency pre-

1 paring such environmental impact statement or con-  
2 ducting such studies pursuant to such agreement shall be  
3 adopted by the other agency, and such other agency shall  
4 not independently prepare another environmental impact  
5 statement or duplicate such studies with respect to such  
6 portion of such plan, but the Federal Energy Regulatory  
7 Commission, in connection with its review of an applica-  
8 tion for a certificate of public convenience and necessity  
9 applicable to such transportation facilities pursuant to sec-  
10 tion 7 of the Natural Gas Act (15 U.S.C. 717f), may pre-  
11 pare such environmental studies or statement relevant to  
12 certification of such transportation facilities as have not  
13 been covered by an environmental impact statement or  
14 studies prepared by the Secretary. The Secretary, in con-  
15 sultation with the Federal Energy Regulatory Commis-  
16 sion, shall promulgate rules to implement this subsection,  
17 but the Federal Energy Regulatory Commission shall re-  
18 tain sole authority with respect to rules and procedures  
19 applicable to the filing of any application with the Com-  
20 mission and to all aspects of the Commission's review of,  
21 and action on, any such application.”.

1 **SEC. 6514. FEDERAL ENERGY NATURAL RESOURCES EN-**  
2 **HANCEMENT FUND ACT OF 2005.**

3 (a) **SHORT TITLE.**—This section may be cited as the  
4 “Federal Energy Natural Resources Enhancement Fund  
5 Act of 2005”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Energy and minerals exploration, develop-  
8 ment, and production on Federal onshore and off-  
9 shore lands, including bio-based fuel, natural gas,  
10 minerals, oil, geothermal, and power from wind,  
11 waves, currents, and thermal energy, involves signifi-  
12 cant outlays of funds by Federal and State wildlife,  
13 fish, and natural resource management agencies for  
14 environmental studies, planning, development, moni-  
15 toring, and management of wildlife, fish, air, water,  
16 and other natural resources.

17 (2) State wildlife, fish, and natural resource  
18 management agencies are funded primarily through  
19 permit and license fees paid to the States by the  
20 general public to hunt and fish, and through Federal  
21 excise taxes on equipment used for these activities.

22 (3) Funds generated from consumptive and rec-  
23 reational uses of wildlife, fish, and other natural re-  
24 sources currently are inadequate to address the nat-  
25 ural resources related to energy and minerals devel-  
26 opment on Federal onshore and offshore lands.

1           (4) Funds available to Federal agencies respon-  
2           sible for managing Federal onshore and offshore  
3           lands and Federal-trust wildlife and fish species and  
4           their habitats are inadequate to address the natural  
5           resources related to energy and minerals develop-  
6           ment on Federal onshore and offshore lands.

7           (5) Receipts derived from sales, bonus bids, and  
8           royalties under the mineral leasing laws of the  
9           United States are paid to the Treasury through the  
10          Minerals Management Service of the Department of  
11          the Interior.

12          (6) None of the receipts derived from sales,  
13          bonus bids, and royalties under the minerals leasing  
14          laws of the United States are paid to the Federal or  
15          State agencies to examine, monitor, and manage  
16          wildlife, fish, air, water, and other natural resources  
17          related to natural gas, oil, and mineral exploration  
18          and development.

19          (c) PURPOSES.—It is the purpose of this section to—

20                (1) establish a fund for the monitoring and  
21                management of wildlife and fish, and their habitats,  
22                and air, water, and other natural resources related  
23                to energy and minerals development on Federal on-  
24                shore and offshore lands;

1           (2) make available receipts derived from sales,  
2           bonus bids, and royalties from onshore and offshore  
3           gas, mineral, oil, and any additional form of energy  
4           exploration and development under the laws of the  
5           United States for the purposes of such fund;

6           (3) distribute funds from such fund each fiscal  
7           year to the Secretary of the Interior and the States;  
8           and

9           (4) use the distributed funds to secure the nec-  
10          essary trained workforce or contractual services to  
11          conduct environmental studies, planning, develop-  
12          ment, monitoring, and post-development manage-  
13          ment of wildlife and fish and their habitats and air,  
14          water, and other natural resources that may be re-  
15          lated to bio-based fuel, gas, mineral, oil, wind, or  
16          other energy exploration, development, transpor-  
17          tation, transmission, and associated activities on  
18          Federal onshore and offshore lands, including, but  
19          not limited to—

20                 (A) pertinent research, surveys, and envi-  
21                 ronmental analyses conducted to identify any  
22                 impacts on wildlife, fish, air, water, and other  
23                 natural resources from energy and mineral ex-  
24                 ploration, development, production, and trans-  
25                 portation or transmission;

1 (B) projects to maintain, improve, or en-  
2 hance wildlife and fish populations and their  
3 habitats or air, water, or other natural re-  
4 sources, including activities under the Endan-  
5 gered Species Act of 1973;

6 (C) research, surveys, environmental anal-  
7 yses, and projects that assist in managing, in-  
8 cluding mitigating either onsite or offsite, or  
9 both, the impacts of energy and mineral activi-  
10 ties on wildlife, fish, air, water, and other nat-  
11 ural resources; and

12 (D) projects to teach young people to live  
13 off the land.

14 (d) DEFINITIONS.—In this section:

15 (1) ENHANCEMENT FUND.—The term “En-  
16 hancement Fund” means the Federal Energy Nat-  
17 ural Resources Enhancement Fund established by  
18 subsection (e).

19 (2) STATE.—The term “State” means the State  
20 government agency primarily responsible for fish  
21 and wildlife trust resources within a State.

22 (e) ESTABLISHMENT AND USE OF FEDERAL ENERGY  
23 NATURAL RESOURCES ENHANCEMENT FUND.—

24 (1) ENHANCEMENT FUND.—There is estab-  
25 lished in the Treasury a separate account to be

1 known as the “Federal Energy Natural Resources  
2 Enhancement Fund”.

3 (2) FUNDING.—The Secretary of the Treasury  
4 shall deposit in the Enhancement Fund—

5 (A) such sums as are provided by sections  
6 9(b)(4)(A)(ii), 9(b)(4)(B)(ii), 9(c)(4)(A)(ii), and  
7 9(c)(4)(B)(ii) of the Outer Continental Shelf  
8 Lands Act, as amended by this Act;

9 (B)(i) during the period of October 1,  
10 2006, through September 30, 2015, 0.5 percent  
11 of all sums paid into the Treasury under sec-  
12 tion 35 of the Mineral Leasing Act (30 U.S.C.  
13 191), and

14 (ii) beginning October 1, 2015, and there-  
15 after, 2.5 percent of all sums paid into the  
16 Treasury under section 35 of the Mineral Leas-  
17 ing Act (30 U.S.C. 191); and

18 (C)(i) during the period of October 1,  
19 2006, through September 30, 2015, 0.5 percent  
20 of all sums paid into the Treasury from receipts  
21 derived from bonus bids and royalties from  
22 other mineral leasing on public lands, and

23 (ii) beginning October 1, 2015, and there-  
24 after, 2.5 percent of all sums paid into the  
25 Treasury from receipts derived from bonus bids

1           and royalties from other mineral leasing on  
2           public lands.

3           (3) INVESTMENTS.—The Secretary of the  
4           Treasury shall invest the amounts deposited under  
5           paragraph (2) and all accrued interest on the  
6           amounts deposited under paragraph (2) only in in-  
7           terest bearing obligations of the United States or in  
8           obligations guaranteed as to both principal and in-  
9           terest by the United States.

10           (4) PAYMENT TO SECRETARY OF THE INTE-  
11           RIOR.—

12           (A) IN GENERAL.—Beginning with fiscal  
13           year 2007, and in each fiscal year thereafter,  
14           one-third of amounts deposited into the En-  
15           hancement Fund, together with the interest  
16           thereon, shall be available, without fiscal year  
17           limitations, to the Secretary of the Interior for  
18           use for the purposes described in (c)(4).

19           (B) WITHDRAWALS AND TRANSFER OF  
20           FUNDS.—The Secretary of the Treasury shall  
21           withdraw such amounts from the Enhancement  
22           Fund as the Secretary of the Interior may re-  
23           quest, subject to the limitation in (A), and  
24           transfer such amounts to the Secretary of the  
25           Interior to be used, at the discretion of the Sec-

1           retary of the Interior, by the Minerals Manage-  
2           ment Service, the Bureau of Land Manage-  
3           ment, and the United States Fish and Wildlife  
4           Service for use for the purposes described in  
5           subsection (c)(4).

6           (5) PAYMENT TO STATES.—

7           (A) IN GENERAL.—Beginning with fiscal  
8           year 2007, and in each fiscal year thereafter,  
9           two-thirds of amounts deposited into the En-  
10          hancement Fund, together with the interest  
11          thereon, shall be available, without fiscal year  
12          limitations, to the States for use for the pur-  
13          poses described in (c)(4).

14          (B) WITHDRAWALS AND TRANSFER OF  
15          FUNDS.—Within the first 90 days of each fiscal  
16          year, the Secretary of the Treasury shall with-  
17          draw amounts from the Enhancement Fund  
18          and transfer such amounts to the States based  
19          on the proportion of all receipts that were col-  
20          lected the previous fiscal year from Federal  
21          leases within the boundaries of each State and  
22          each State's outer Continental Shelf Adjacent  
23          Zone as determined in accordance with section  
24          4(a) of the Outer Continental Shelf Lands Act  
25          (43 U.S.C. 1333(a)), as amended by this Act.

1           (C) USE OF PAYMENTS BY STATE.—Each  
2           State shall use the payments made under sub-  
3           paragraph (B) only for carrying out projects  
4           and programs for the purposes described in  
5           (c)(4).

6           (D) ENCOURAGE USE OF PRIVATE FUNDS  
7           BY STATE.—Each State shall use the payments  
8           made under subparagraph (B) to leverage pri-  
9           vate funds for carrying out projects for the pur-  
10          poses described in (c)(4).

11          (f) LIMITATION ON USE.—Amounts available under  
12          this section may not be used for the purchase of any inter-  
13          est in land.

14          (g) REPORTS TO CONGRESS.—

15           (1) IN GENERAL.—Beginning in fiscal year  
16           2008 and continuing for each fiscal year thereafter,  
17           the Secretary of the Interior and each State receiv-  
18           ing funds from the Enhancement Fund shall submit  
19           a report to the Committee on Energy and Natural  
20           Resources of the Senate and the Committee on Re-  
21           sources of the House of Representatives.

22           (2) REQUIRED INFORMATION.—Reports sub-  
23           mitted to the Congress by the Secretary of the Inte-  
24           rior and States under this subsection shall include

1 the following information regarding expenditures  
2 during the previous fiscal year:

3 (A) A summary of pertinent scientific re-  
4 search and surveys conducted to identify im-  
5 pacts on wildlife, fish, and other natural re-  
6 sources from energy and mineral developments.

7 (B) A summary of projects planned and  
8 completed to maintain, improve or enhance  
9 wildlife and fish populations and their habitats  
10 or other natural resources.

11 (C) A list of additional actions that assist,  
12 or would assist, in managing, including miti-  
13 gating either onsite or offsite, or both, the im-  
14 pacts of energy and mineral development on  
15 wildlife, fish, and other natural resources.

16 (D) A summary of private (non-Federal)  
17 funds used to plan, conduct, and complete the  
18 plans and programs identified in paragraphs  
19 (2)(A) and (2)(B).

20 **SEC. 6515. TERMINATION OF EFFECT OF LAWS PROHIB-**  
21 **ITING THE SPENDING OF APPROPRIATED**  
22 **FUNDS FOR CERTAIN PURPOSES.**

23 All provisions of existing Federal law prohibiting the  
24 spending of appropriated funds to conduct oil and natural

1 gas leasing and preleasing activities for any area of the  
2 outer Continental Shelf shall have no force or effect.

3 **SEC. 6516. OUTER CONTINENTAL SHELF INCOMPATIBLE**  
4 **USE.**

5 (a) IN GENERAL.—No Federal agency may permit  
6 construction or operation (or both) of any facility, or des-  
7 ignate or maintain a restricted transportation corridor or  
8 operating area on the Federal outer Continental Shelf or  
9 in State waters, that will be incompatible with, as deter-  
10 mined by the Secretary of the Interior, oil and gas or nat-  
11 ural gas leasing and substantially full exploration and pro-  
12 duction of tracts that are geologically prospective for oil  
13 or natural gas (or both), unless the facility, transportation  
14 corridor, or operating area, respectively, is to be located  
15 in an area of the outer Continental Shelf that is unavail-  
16 able for oil and gas or natural gas leasing by operation  
17 of law.

18 (b) EXCEPTIONS.—The President may grant an ex-  
19 ception to subsection (a) after a finding that such excep-  
20 tion is required in the national interest.

21 **SEC. 6517. REPURCHASE OF CERTAIN LEASES.**

22 (a) AUTHORITY TO REPURCHASE AND CANCEL CER-  
23 TAIN LEASES.—The Secretary of the Interior shall repur-  
24 chase and cancel any Federal oil and gas, geothermal,  
25 coal, oil shale, tar sands, or other mineral lease, whether

1 onshore or offshore, if the Secretary finds that such lease  
2 qualifies for repurchase and cancellation under the regula-  
3 tions authorized by this section.

4 (b) REGULATIONS.—Not later than 365 days after  
5 the date of the enactment of this Act, the Secretary shall  
6 publish a final regulation stating the conditions under  
7 which a lease referred to in subsection (a) would qualify  
8 for repurchase and cancellation, and the process to be fol-  
9 lowed regarding repurchase and cancellation. Such regula-  
10 tion shall include, but not be limited to, the following:

11 (1) The Secretary shall repurchase and cancel  
12 a lease after written request by the lessee upon a  
13 finding by the Secretary that—

14 (A) a request by the lessee for a required  
15 permit or other approval complied with applica-  
16 ble law, except the Coastal Zone Management  
17 Act of 1972 (16 U.S.C. 1451 et seq.), and  
18 terms of the lease and such permit or other ap-  
19 proval was denied;

20 (B) a Federal agency failed to act on a re-  
21 quest by the lessee for a required permit, other  
22 approval, or administrative appeal within a reg-  
23 ulatory or statutory time-frame associated with  
24 the requested action, whether advisory or man-  
25 datory, or if none, within 180 days; or

1           (C) a Federal agency attached a condition  
2           of approval, without agreement by the lessee, to  
3           a required permit or other approval if such con-  
4           dition of approval was not mandated by Federal  
5           statute or regulation in effect on the date of  
6           lease issuance, or was not specifically allowed  
7           under the terms of the lease.

8           (2) A lessee shall not be required to exhaust ad-  
9           ministrative remedies regarding a permit request,  
10          administrative appeal, or other required request for  
11          approval for the purposes of this section.

12          (3) The Secretary shall make a final agency de-  
13          cision on a request by a lessee under this section  
14          within 180 days of request.

15          (4) Compensation to a lessee to repurchase and  
16          cancel a lease under this section shall be the amount  
17          that a lessee would receive in a restitution case for  
18          a material breach of contract.

19          (5) Compensation shall be in the form of a  
20          check or electronic transfer from the Department of  
21          the Treasury from funds deposited into miscella-  
22          neous receipts under the authority of the same Act  
23          that authorized the issuance of the lease being re-  
24          purchased.

1           (6) Failure of the Secretary to make a final  
2           agency decision on a request by a lessee under this  
3           section within 180 days of request shall result in a  
4           10 percent increase in the compensation due to the  
5           lessee if the lease is ultimately repurchased.

6           (c) NO PREJUDICE.—This section shall not be inter-  
7           preted to prejudice any other rights that the lessee would  
8           have in the absence of this section.

9           **SEC. 6518. OFFSITE ENVIRONMENTAL MITIGATION.**

10          Notwithstanding any other provision of law, any per-  
11          son conducting activities under the Mineral Leasing Act  
12          (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30  
13          U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-  
14          quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16  
15          U.S.C. 552 et seq.), the General Mining Act of 1872 (30  
16          U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.  
17          601 et seq.), or the Outer Continental Shelf Lands Act  
18          (43 U.S.C. 1331 et seq.), may in satisfying any mitigation  
19          requirements associated with such activities propose miti-  
20          gation measures on a site away from the area impacted  
21          and the Secretary of the Interior shall accept these pro-  
22          posed measures if the Secretary finds that they generally  
23          achieve the purposes for which mitigation measures apper-  
24          tained.

1 **SEC. 6519. AMENDMENTS TO THE MINERAL LEASING ACT.**

2 Section 17(g) of the Mineral Leasing Act (30 U.S.C.  
3 226(g)) is amended to read as follows:

4 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-  
5 TIES.—

6 “(1) REGULATION OF SURFACE-DISTURBING  
7 ACTIVITIES.—The Secretary of the Interior, or for  
8 National Forest lands, the Secretary of Agriculture,  
9 shall regulate all surface-disturbing activities con-  
10 ducted pursuant to any lease issued under this Act,  
11 and shall determine reclamation and other actions as  
12 required in the interest of conservation of surface re-  
13 sources.

14 “(2) SUBMISSION OF EXPLORATION PLAN; COM-  
15 PLETION REVIEW; COMPLIANCE REVIEW.—

16 “(A) Prior to beginning oil and gas explo-  
17 ration activities, a lessee shall submit an explo-  
18 ration plan to the Secretary of the Interior for  
19 review.

20 “(B) The Secretary shall review the plan  
21 for completeness within 10 days of submission.

22 “(C) In the event the exploration plan is  
23 determined to be incomplete, the Secretary shall  
24 notify the lessee in writing and specify the  
25 items or information needed to complete the ex-  
26 ploration plan.

1           “(D) The Secretary shall have 10 days to  
2 review any modified exploration plan submitted  
3 by the lessee.

4           “(E) To be deemed complete, an explo-  
5 ration plan shall include, in the degree of detail  
6 to be determined by the Secretary by rule or  
7 regulation—

8                   “(i) a drilling plan containing a de-  
9 scription of the drilling program;

10                   “(ii) the surface and projected com-  
11 pletion zone location;

12                   “(iii) pertinent geologic data;

13                   “(iv) expected hazards, and proposed  
14 mitigation measures to address such haz-  
15 ards;

16                   “(v) a schedule of anticipated explo-  
17 ration activities to be undertaken;

18                   “(vi) a description of equipment to be  
19 used for such activities;

20                   “(vii) a certification from the lessee  
21 stating that the exploration plan complies  
22 with all lease, regulatory and statutory re-  
23 quirements in effect on the date of the  
24 issuance of the lease;

1           “(viii) evidence that the lessee has se-  
2           cured an adequate bond, surety, or other  
3           financial arrangement prior to commence-  
4           ment of any surface disturbing activity;

5           “(ix) a plan that details the complete  
6           and timely reclamation of the lease tract;  
7           and

8           “(x) such other relevant information  
9           as the Secretary may by regulation require.

10          “(F) Upon a determination that the explo-  
11          ration plan is complete, the Secretary shall have  
12          30 days from the date the plan is deemed com-  
13          plete to conduct a review of the plan.

14          “(G) If the Secretary finds the exploration  
15          plan is not consistent with all statutory and  
16          regulatory requirements in effect on the date of  
17          issuance of the lease, the Secretary shall notify  
18          the lessee with a detailed explanation of such  
19          modifications of the exploration plan as are nec-  
20          essary to achieve compliance.

21          “(H) The lessee shall not take any action  
22          under the exploration plan within a 30 day re-  
23          view period, or thereafter until the plan has  
24          been modified to achieve compliance as so noti-  
25          fied.

1           “(I) After review by the Secretary provided  
2           by this subsection, a lessee may operate pursu-  
3           ant to the plan without further review or ap-  
4           proval by the Secretary.

5           “(3) PLAN REVISIONS; CONDUCT OF EXPLO-  
6           RATION ACTIVITIES.—

7           “(A) If a significant revision of an explo-  
8           ration plan under this subsection is submitted  
9           to the Secretary, the process to be used for the  
10          review of such revision shall be the same as set  
11          forth in paragraph (1) of this subsection.

12          “(B) All exploration activities pursuant to  
13          any lease shall be conducted in accordance with  
14          an exploration plan that has been submitted to  
15          and reviewed by the Secretary or a revision of  
16          such plan.

17          “(4) SUBMISSION OF DEVELOPMENT AND PRO-  
18          DUCTION PLAN; COMPLETENESS REVIEW; COMPLI-  
19          ANCE REVIEW.—

20          “(A) Prior to beginning oil and gas devel-  
21          opment and production activities, a lessee shall  
22          submit a development and exploration plan to  
23          the Secretary of the Interior. Upon submission,  
24          such plans shall be subject to a review for com-  
25          pleteness.

1           “(B) The Secretary shall review the plan  
2 for completeness within 30 days of submission.

3           “(C) In the event a development and pro-  
4 duction plan is determined to be incomplete, the  
5 Secretary shall notify the lessee in writing and  
6 specify the items or information needed to com-  
7 plete the plan.

8           “(D) The Secretary shall have 30 days to  
9 review for completeness any modified develop-  
10 ment and production plan submitted by the les-  
11 see.

12           “(E) To be deemed complete, a develop-  
13 ment and production plan shall include, in the  
14 degree of detail to be determined by the Sec-  
15 retary by rule or regulation—

16                   “(i) a drilling plan containing a de-  
17 scription of the drilling program;

18                   “(ii) the surface and projected com-  
19 pletion zone location;

20                   “(iii) pertinent geologic data;

21                   “(iv) expected hazards, and proposed  
22 mitigation measures to address such haz-  
23 ards;

24                   “(v) a statement describing all facili-  
25 ties and operations proposed by the lessee

1 and known by the lessee (whether or not  
2 owned or operated by such lessee) that  
3 shall be constructed or utilized in the de-  
4 velopment and production of oil or gas  
5 from the leases areas, including the loca-  
6 tion and site of such facilities and oper-  
7 ations, the land, labor, material, and en-  
8 ergy requirements associated with such fa-  
9 cilities and operations;

10 “(vi) the general work to be per-  
11 formed;

12 “(vii) the environmental safeguards to  
13 be implemented in connection with the de-  
14 velopment and production and how such  
15 safeguards are to be implemented;

16 “(viii) all safety standards to be met  
17 and how such standards are to be met;

18 “(ix) an expected rate of development  
19 and production and a time schedule for  
20 performance;

21 “(x) a certification from the lessee  
22 stating that the development and produc-  
23 tion plan complies with all lease, regu-  
24 latory, and statutory requirements in effect  
25 on the date of issuance of the lease;

1           “(xi) evidence that the lessee has se-  
2           cured an adequate bond, surety, or other  
3           financial arrangement prior to commence-  
4           ment of any surface disturbing activity;

5           “(xii) a plan that details the complete  
6           and timely reclamation of the lease tract;  
7           and

8           “(xiii) such other relevant information  
9           as the Secretary may by regulation require.

10          “(F) Upon a determination that the devel-  
11          opment and production plan is complete, the  
12          Secretary shall have 120 days from the date the  
13          plan is deemed complete to conduct a review of  
14          the plan.

15          “(G) If the Secretary finds the develop-  
16          ment and production plan is not consistent with  
17          all statutory and regulatory requirements in ef-  
18          fect on the date of issuance of the lease, the  
19          Secretary shall notify the lessee with a detailed  
20          explanation of such modifications of the devel-  
21          opment and production plan as are necessary to  
22          achieve compliance.

23          “(H) The lessee shall not take any action  
24          under the development and production plan  
25          within a 120 day review period, or thereafter

1           until the plan has been modified to achieve  
2           compliance as so notified.

3           “(5) PLAN REVISIONS; CONDUCT OF DEVELOP-  
4           MENT AND PRODUCTION ACTIVITIES.—

5                   “(A) If a significant revision of a develop-  
6           ment and production plan under this subsection  
7           is submitted to the Secretary, the process to be  
8           used for the review of such revision shall be the  
9           same as set forth in paragraph (4) of this sub-  
10          section.

11                   “(B) All development and production ac-  
12          tivities pursuant to any lease shall be conducted  
13          in accordance with an exploration plan that has  
14          been submitted to and reviewed by the Sec-  
15          retary or a revision of such plan.

16           “(6) CANCELLATION OF LEASE ON FAILURE TO  
17          SUBMIT PLAN OR COMPLY WITH APPROVED PLAN.—

18          Whenever the owner of any lease fails to submit a  
19          plan in accordance with regulations issued under  
20          this section, or fails to comply with a plan, the lease  
21          may be canceled in accordance with section 31. Ter-  
22          mination of a lease because of failure to comply with  
23          a plan, including required modifications or revisions,  
24          shall not entitle a lessee to any compensation.”.

1 **SEC. 6520. MINERALS MANAGEMENT SERVICE.**

2 The bureau known as the “Minerals Management  
3 Service” in the Department of the Interior shall be known  
4 as the “National Ocean Energy and Royalty Service”. The  
5 Director of such shall be assisted by only one deputy direc-  
6 tor, who shall be a non-career employee within the Senior  
7 Executive Service.

8 **SEC. 6521. AUTHORITY TO USE DECOMMISSIONED OFF-**  
9 **SHORE OIL AND GAS PLATFORMS AND**  
10 **OTHER FACILITIES FOR MARICULTURE, ARTI-**  
11 **FICIAL REEF, SCIENTIFIC RESEARCH, OR**  
12 **OTHER USES.**

13 (a) **SHORT TITLE.**—This section may be cited as the  
14 “Rigs to Reefs Act of 2005”.

15 (b) **IN GENERAL.**—The Outer Continental Shelf  
16 Lands Act (43 U.S.C. 1301 et seq.) is amended by insert-  
17 ing after section 9 the following:

18 **“SEC. 10. USE OF DECOMMISSIONED OFFSHORE OIL AND**  
19 **GAS PLATFORMS AND OTHER FACILITIES**  
20 **FOR MARICULTURE, ARTIFICIAL REEF, SCI-**  
21 **ENTIFIC RESEARCH, OR OTHER USES.**

22 “(a) **IN GENERAL.**—The Secretary shall issue regula-  
23 tions under which the Secretary may authorize use of an  
24 offshore oil and gas platform or other facility that is de-  
25 commissioned from service for oil and gas purposes for

1 culture of marine organisms, an artificial reef, scientific  
2 research, or any other use authorized under section 8(p).

3 “(b) TRANSFER REQUIREMENTS.—The Secretary  
4 shall not allow the transfer of a decommissioned offshore  
5 oil and gas platform or other facility to another person  
6 unless the Secretary is satisfied that the transferee is suf-  
7 ficiently bonded, endowed, or otherwise financially able to  
8 fulfill its obligations, including but not limited to—

9 “(1) ongoing maintenance of the platform or  
10 other facility;

11 “(2) any liability obligations that might arise;

12 “(3) removal of the platform or other facility if  
13 determined necessary by the Secretary; and

14 “(4) any other requirements and obligations  
15 that the Secretary may deem appropriate by regula-  
16 tion.

17 “(c) PLUGGING AND ABANDONMENT.—The Sec-  
18 retary shall ensure that obligations of a lessee regarding  
19 the plugging and abandonment of wells are unaffected by  
20 implementation of this section.

21 “(d) POTENTIAL TO PETITION TO OPT-OUT OF REG-  
22 ULATIONS.—An Adjacent State acting through a resolu-  
23 tion of its legislature, with concurrence of its Governor,  
24 may petition to opt-out of the application of regulations  
25 promulgated under this section to platforms and other fa-

1 cilities located in the area of its Adjacent Zone within 25  
2 miles of the coastline. The Secretary is authorized to ex-  
3 cept such area from the application of such regulations,  
4 and shall approve such petition, unless the Secretary finds  
5 that approving the petition would probably cause serious  
6 harm or damage to the marine resources of the State's  
7 Adjacent Zone. Prior to acting on the petition, the Sec-  
8 retary shall complete an environmental assessment that  
9 documents the anticipated environmental effects of ap-  
10 proving the petition.

11       “(e) LIMITATION ON LIABILITY.—A person that had  
12 used an offshore oil and gas platform or other facility for  
13 oil and gas purposes and that no longer has any ownership  
14 or control of the platform or other facility shall not be  
15 liable under Federal law for any costs or damages arising  
16 from such platform or other facility after the date the plat-  
17 form or other facility is used for any purpose under sub-  
18 section (a), unless such costs or damages arise from—

19               “(1) use of the platform or other facility by the  
20 person for development or production of oil or gas;  
21 or

22               “(2) another act or omission of the person.

23       “(f) OTHER LEASING AND USE NOT AFFECTED.—  
24 This section, and the use of any offshore oil and gas plat-

1 form or other facility for any purpose under subsection  
2 (a), shall not affect—

3 “(1) the authority of the Secretary to lease any  
4 area under this Act; or

5 “(2) any activity otherwise authorized under  
6 this Act.”.

7 (c) DEADLINE FOR REGULATIONS.—The Secretary of  
8 the Interior shall issue regulations under subsection (b)  
9 by not later than 180 days after the date of the enactment  
10 of this Act.

11 (d) STUDY AND REPORT ON EFFECTS OF REMOVAL  
12 OF PLATFORMS.—Not later than one year after the date  
13 of enactment of this Act, the Secretary of the Interior,  
14 in consultation with other Federal agencies as the Sec-  
15 retary deems advisable, shall study and report to the Con-  
16 gress regarding how the removal of offshore oil and gas  
17 platforms and other facilities from the outer Continental  
18 Shelf would affect existing fish stocks and coral popu-  
19 lations.

20 **SEC. 6522. REPEAL OF REQUIREMENT TO CONDUCT COM-**  
21 **PREHENSIVE INVENTORY OF OCS OIL AND**  
22 **NATURAL GAS RESOURCES.**

23 The Energy Policy Act of 2005 (Public Law 109–  
24 58) is amended—

1           (1) by repealing section 357 (119 Stat. 720; 42  
2           U.S.C. 15912); and

3           (2) in the table of contents in section 1(b), by  
4           striking the item relating to such section 357.

5 **SEC. 6523. MINING AND PETROLEUM SCHOOLS.**

6           (a) FEDERAL ENERGY AND MINERAL RESOURCES  
7 PROFESSIONAL DEVELOPMENT FUND.—

8           (1) PROFESSIONAL DEVELOPMENT FUND.—

9           There is established in the Treasury a separate ac-  
10          count to be known as the “Federal Energy And  
11          Mineral Resources Professional Development Fund”  
12          (in this section referred to as the “Professional De-  
13          velopment Fund”).

14          (2) FUNDING.—The Secretary of the Treasury  
15          shall deposit in the Professional Development  
16          Fund—

17                 (A) such sums as are provided by sections  
18                 9(b)(4)(A)(iii), 9(b)(4)(B)(iii), 9(c)(4)(A)(iii),  
19                 and 9(c)(4)(B)(iii) of the Outer Continental  
20                 Shelf Lands Act, as amended by this Act;

21                 (B)(i) during the period of October 1,  
22                 2006, through September 30, 2015, 0.4 percent  
23                 of all sums paid into the Treasury under sec-  
24                 tion 35 of the Mineral Leasing Act (30 U.S.C.  
25                 191), and

1 (ii) beginning October 1, 2015, and there-  
2 after, 2.0 percent of all sums paid into the  
3 Treasury under section 35 of the Mineral Leas-  
4 ing Act (30 U.S.C. 191);

5 (C)(i) during the period of October 1,  
6 2006, through September 30, 2015, 0.4 percent  
7 of all sums paid into the Treasury from receipts  
8 derived from bonus bids and royalties from  
9 other mineral leasing on public lands, and

10 (ii) beginning October 1, 2015, and there-  
11 after, 2.0 percent of all sums paid into the  
12 Treasury from receipts derived from bonus bids  
13 and royalties from other mineral leasing on  
14 public lands;

15 (D) donations received under paragraph  
16 (4);

17 (E) amounts referred to in section  
18 2325(d)(1) of the Revised Statutes, as amended  
19 by this Act; and

20 (F) funds received under section 10 of the  
21 Energy and Mineral Schools Reinvestment Act,  
22 as amended by this Act.

23 (3) INVESTMENTS.—The Secretary of the  
24 Treasury shall invest the amounts deposited under  
25 paragraph (2) and all accrued interest on the

1 amounts deposited under paragraph (2) only in in-  
2 terest bearing obligations of the United States or in  
3 obligations guaranteed as to both principal and in-  
4 terest by the United States.

5 (4) DONATIONS.—The Secretary of the Interior  
6 may solicit and accept donations of funds for deposit  
7 into the Professional Development Fund.

8 (5) AVAILABILITY TO SECRETARY OF THE IN-  
9 TERIOR.—

10 (A) IN GENERAL.—Beginning with fiscal  
11 year 2007, and in each fiscal year thereafter,  
12 the amounts deposited into the Professional De-  
13 velopment Fund, together with the interest  
14 thereon, shall be available, without fiscal year  
15 limitations, to the Secretary of the Interior for  
16 use to carry out the Energy and Mineral  
17 Schools Reinvestment Act.

18 (B) WITHDRAWALS AND TRANSFER OF  
19 FUNDS.—The Secretary of the Treasury shall  
20 withdraw such amounts from the Professional  
21 Development Fund as the Secretary of the Inte-  
22 rior may request and transfer such amounts to  
23 the Secretary of the Interior to be used, at the  
24 discretion of the Secretary to carry out the En-  
25 ergy and Mineral Schools Reinvestment Act.

1 (b) MAINTENANCE AND RESTORATION OF EXISTING  
2 AND HISTORIC PETROLEUM AND MINING ENGINEERING  
3 PROGRAMS.—Public Law 98–409 (30 U.S.C. 1221 et  
4 seq.) is amended to read as follows:

5 **“SEC. 1. SHORT TITLE.**

6 “This Act may be cited as the ‘Energy and Mineral  
7 Schools Reinvestment Act’.

8 **“SEC. 2. POLICY.**

9 “It is the policy of the United States to maintain the  
10 human capital needed to preserve and foster the economic,  
11 energy, and mineral resources security of the United  
12 States. The petroleum and mining engineering programs  
13 and the applied geology and geophysics programs at State  
14 chartered schools, universities, and institutions that  
15 produce human capital are national assets and should be  
16 assisted with Federal funds to ensure their continued  
17 health and existence.

18 **“SEC. 3. MAINTAINING AND RESTORING HISTORIC AND EX-**  
19 **ISTING PETROLEUM AND MINING ENGINEER-**  
20 **ING EDUCATION PROGRAMS.**

21 “(a) Using the funds in the Federal Energy And Min-  
22 eral Resources Professional Development Fund, the Sec-  
23 retary of the Interior (in this Act referred to as the ‘Sec-  
24 retary’) shall provide funds to each historic and existing  
25 State-chartered recognized petroleum or mining school to

1 assist such schools, universities, and institutions in main-  
2 taining programs in petroleum, mining, and mineral engi-  
3 neering education and research. All funds shall be directed  
4 only to these programs and shall be subject to the condi-  
5 tions of this section. Such funds shall not be less than  
6 35 percent of the annual outlay of funds under this Act.

7       “(b) In this Act the term ‘historic and existing State-  
8 chartered recognized petroleum or mining school’ means  
9 a school, university, or educational institution with the  
10 presence of an engineering program meeting the specific  
11 program criteria, established by the member societies of  
12 ABET, Inc., for petroleum, mining, or mineral engineer-  
13 ing and that is accredited on the date of enactment of  
14 the Ocean State Options Act of 2005 by ABET, Inc.

15       “(c) It shall be the duty of each school, university,  
16 or institution receiving funds under this section to provide  
17 for the training of undergraduate and graduate petroleum,  
18 mining, and mineral engineers through research, inves-  
19 tigations, demonstrations, and experiments. All such work  
20 shall be carried out in a manner that will enhance under-  
21 graduate education.

22       “(d) Each school, university, or institution receiving  
23 funds under this Act shall maintain the program for which  
24 the funds are provided for 10 years after the date of the  
25 first receipt of such funds take steps agreed to by the Sec-

1 retary, to increase the number of undergraduate students  
2 enrolled in and completing the programs of study in petro-  
3 leum, mining, and mineral engineering.

4       “(e) The research, investigation, demonstration, ex-  
5 periment, and training authorized by this section may in-  
6 clude development and production of conventional and  
7 non-conventional fuel resources, the production of metallic  
8 and non-metallic mineral resources, and the production of  
9 stone, sand, and gravel. In all cases the work carried out  
10 with funds made available under this Act shall include a  
11 significant opportunity for participation by undergraduate  
12 students.

13       “(f) Research funded by this Act related to energy  
14 and mineral resource development and production may in-  
15 clude studies of petroleum, mining, and mineral extraction  
16 and immediately related beneficiation technology; mineral  
17 economics, reclamation technology and practices for active  
18 operations, and the development of re-mining systems and  
19 technologies to facilitate reclamation that fosters the ulti-  
20 mate recovery of resources at abandoned petroleum, min-  
21 ing, and aggregate production sites.

22       “(g) Grants for basic science and engineering studies  
23 and research shall not require additional participation by  
24 funding partners. Grants for studies to demonstrate the  
25 proof of concept for science and engineering or the dem-

1 onstration of feasibility and implementation shall include  
2 participation by industry and may include funding from  
3 other Federal agencies.

4 “(h)(1) No funds made available under this section  
5 shall be applied to the acquisition by purchase or lease  
6 of any land or interests therein, or the rental, purchase,  
7 construction, preservation, or repair of any building.

8 “(2) Funding made available under this section may  
9 be used with the express approval of the Secretary for pro-  
10 posals that will provide for maintaining or upgrading of  
11 existing laboratories and laboratory equipment. Funding  
12 for such maintenance shall not be used for university over-  
13 head expenses.

14 “(3) Funding made available under this Act may be  
15 used for maintaining and upgrading university-owned  
16 mines and oil and gas drilling rigs used for undergraduate  
17 and graduate training and mine safety training for the  
18 industry. All requests for funding such mines and oil and  
19 gas drilling rigs must demonstrate that they have been  
20 owned by the university for 5 years prior to the date of  
21 enactment of the Ocean State Options Act of 2005 and  
22 have been actively used for instructional purposes during  
23 that time.

24 “(4) Any funding made available under this section  
25 for research, investigation, demonstration, experiment, or

1 training shall not be used for university overhead charges  
2 in excess of 10 percent of the amount authorized by the  
3 Secretary.

4 **“SEC. 4. FORMER PETROLEUM AND MINING ENGINEERING**  
5 **PROGRAMS.**

6 “A school, university, or educational institution that  
7 formerly met the requirements of section 3(b) of this Act  
8 immediately before the date of the enactment of the Off-  
9 shore State Options Act of 2004 shall be eligible for fund-  
10 ing under this Act only if it—

11 “(1) establishes a petroleum, mining, or mineral  
12 engineering program that meets the specific program  
13 criteria and is accredited as such by ABET, Inc.;

14 “(2) agrees to the conditions of subsections (c),  
15 (d), and (e) of section 3 and the Secretary, as ad-  
16 vised by the Committee established by section 11,  
17 determines that the program will strengthen and in-  
18 crease the number of nationally available, well-  
19 qualified faculty members in petroleum, mining, and  
20 mineral engineering; and

21 “(3) agrees to maintain the accredited program  
22 for 10 years after the date of the first receipt of  
23 funds under this Act.

1 **“SEC. 5. FUNDING OF CONSORTIA OF HISTORIC AND EXIST-**  
2 **ING SCHOOLS.**

3 “(a) Where appropriate, the Secretary may make  
4 funds available to consortia of schools, universities, or in-  
5 stitutions that include the historic and existing petroleum  
6 and mining schools to meet the necessary expenses for  
7 purposes of—

8 “(1) specific energy and mineral research  
9 projects of broad application that could not other-  
10 wise be undertaken, including the expenses of plan-  
11 ning and coordinating regional petroleum, mining,  
12 and mineral engineering projects by two or more  
13 schools; and

14 “(2) research into any aspects of petroleum,  
15 mining, or mineral engineering problems that are re-  
16 lated to the mission of the Department of the Inte-  
17 rior and that are considered by the Committee to be  
18 desirable.

19 “(b) Each application for funds under subsection (a)  
20 shall state, among other things, the nature of the project  
21 to be undertaken; the period during which it will be pur-  
22 sued; the qualifications of the personnel who will direct  
23 and conduct it; the estimated costs; the importance of the  
24 project to the Nation, region, or States concerned; its rela-  
25 tion to other known research projects theretofore pursued  
26 or being pursued; the extent to which the proposed project

1 will maximize the opportunity for the training of under-  
2 graduate petroleum, mining, and mineral engineers; and  
3 the extent of participation by nongovernmental sources in  
4 the project.

5       “(c) No funds shall be made available under this sec-  
6 tion except for a project approved by the Secretary. All  
7 funds shall be made available upon the basis of merit of  
8 the project, the need for the knowledge that it is expected  
9 to produce when completed, and the opportunity it pro-  
10 vides for the undergraduate training of individuals as pe-  
11 troleum, mining, and mineral engineers.

12 **“SEC. 6. SUPPORT FOR SCHOOLS WITH ENERGY AND MIN-**  
13 **ERAL RESOURCE PROGRAMS IN PETROLEUM**  
14 **AND MINERAL EXPLORATION GEOLOGY, PE-**  
15 **TROLEUM GEOPHYSICS, OR MINING GEO-**  
16 **PHYSICS.**

17       “(a) Up to 20 percent of the annual outlay of funds  
18 under this Act may be granted to schools, universities, and  
19 institutions other than those described in sections 3, 4,  
20 and 5.

21       “(b) The Secretary, as advised by the Committee es-  
22 tablished by section 11, shall determine the eligibility of  
23 a college or university to receive funding under this Act  
24 using criteria that include—

1           “(1) the presence of a substantial program of  
2 undergraduate and graduate instruction and re-  
3 search in petroleum geology, mineral exploration ge-  
4 ology, economic geology, mining geology, petroleum  
5 geophysics, mining geophysics, geological engineer-  
6 ing, or geophysical engineering that has a dem-  
7 onstrated history of achievement;

8           “(2) evidence of institutional commitment for  
9 the purposes of this Act that includes a significant  
10 opportunity for participation by undergraduate stu-  
11 dents;

12           “(3) evidence that such school, university, or in-  
13 stitution has or can obtain significant industrial co-  
14 operation in activities within the scope of this Act;

15           “(4) agreement by the school, university, or in-  
16 stitution to maintain the programs for which the  
17 funding is sought for the 10-year period beginning  
18 on the date the school, university, or institution first  
19 receives such funds; and

20           “(5) requiring that such funding shall be for  
21 the purposes set forth in subsections (e), (f), and (g)  
22 of section 3 and subject to the conditions set forth  
23 in section 3(h).

1 **“SEC. 7. DESIGNATION OF FUNDS FOR SCHOLARSHIPS AND**  
2 **FELLOWSHIPS.**

3 “(a) The Committee shall recommend to the Sec-  
4 retary the designation and utilization of not more than  
5 30 percent of the annual outlay of funds under this Act  
6 for the purpose of providing scholarships, graduate fellow-  
7 ships, and postdoctoral fellowships.

8 “(b) In order to receive a scholarship or a graduate  
9 fellowship, an individual student must be a lawful perma-  
10 nent resident of the United States or a United States cit-  
11 izen and must agree in writing to complete a course of  
12 studies and receive a degree in petroleum, mining, or min-  
13 eral engineering, petroleum geology, mining and economic  
14 geology, petroleum and mining geophysics, or mineral eco-  
15 nomics.

16 “(c) The regulations required by section 9 shall re-  
17 quire that an individual, in order to retain a scholarship  
18 or graduate fellowship, must continue in one of the course  
19 of studies listed in subsection (b) of this section, must re-  
20 main in good academic standing, as determined by the  
21 school, institution, or university and must allow for rein-  
22 statement of the scholarship or graduate fellowship by the  
23 Secretary, upon the recommendation of the school or insti-  
24 tution. Such regulations may also provide for recovery of  
25 funds from an individual who fails to complete any of the  
26 courses of study listed in subsection (b) of this section

1 after notice that such completion is a requirement of re-  
2 ceipt funding under this Act.

3 **“SEC. 8. FUNDING CRITERIA FOR INSTITUTIONS.**

4 “(a) Funds available under this Act shall be paid at  
5 such times and in such amounts during each fiscal year  
6 as determined by the Secretary, and upon vouchers ap-  
7 proved by the Secretary. Each school, university, or insti-  
8 tution that receives funds under this Act shall—

9 “(1) establish its plan to provide for the train-  
10 ing of individuals as petroleum or mineral engineers  
11 and scientists under a curriculum appropriate to the  
12 field of mineral resources and mineral engineering  
13 and related fields;

14 “(2) establish policies and procedures that as-  
15 sure that Federal funds made available under this  
16 Act for any fiscal year will supplement and, to the  
17 extent practicable, increase the level of funds that  
18 would, in the absence of such Federal funds, be  
19 made available for purposes of this Act, and in no  
20 case supplant such funds; and

21 “(3) have an officer appointed by its governing  
22 authority who shall receive and account for all funds  
23 paid under this Act and shall make an annual report  
24 to the Secretary on or before the first day of Sep-  
25 tember of each year, on work accomplished and the

1 status of projects underway, together with a detailed  
2 statement of the amounts received under this Act  
3 during the preceding fiscal year, and of its disburse-  
4 ments on schedules prescribed by the Secretary.

5 “(b) If any of the funds received by the authorized  
6 receiving officer of any institute under this Act are found  
7 by the Secretary to have been improperly diminished, lost,  
8 or misapplied, such funds shall be recovered by the Sec-  
9 retary.

10 “(c) Schools, universities, and institutions receiving  
11 funds under this Act are authorized and encouraged to  
12 plan and conduct programs under this Act in cooperation  
13 with each other and with such other agencies, business en-  
14 terprises and individuals.

15 **“SEC. 9. DUTIES OF SECRETARY.**

16 “(a) The Secretary, acting through the Assistant Sec-  
17 retary for Land and Minerals Management, shall admin-  
18 ister this Act and, after full consultation with other inter-  
19 ested Federal agencies, shall prescribe such rules and reg-  
20 ulations as may be necessary to carry out its provisions  
21 not later than 1 year after the enactment of the Ocean  
22 State Options Act of 2005.

23 “(b) The Secretary shall furnish such advice and as-  
24 sistance as will best promote the purposes of this Act,  
25 shall participate in coordinating research initiated under

1 this Act, shall indicate to schools, universities, and institu-  
2 tions receiving funds under this Act such lines of inquiry  
3 that seem most important, and shall encourage and assist  
4 in the establishment and maintenance of cooperation by  
5 and between such schools, universities, and institutions  
6 and between them and other research organizations, the  
7 Department of the Interior, and other Federal agencies.

8       “(c) On or before the first day of July of each year  
9 beginning after the date of enactment of this sentence,  
10 schools, universities, and institutions receiving funds  
11 under this Act shall certify compliance with this Act. An  
12 individual granted a scholarship or fellowship with funds  
13 provided under this Act, shall through their respective  
14 school, university, or institution, advise the Secretary upon  
15 completion of the course of studies and the awarding of  
16 the degree within 30 days after the award. As needed the  
17 Secretary shall ascertain whether the requirements of this  
18 Act have been met by schools, universities, and institutions  
19 and individuals.

20 **“SEC. 10. COORDINATION.**

21       “(a) Nothing in this Act shall be construed to impair  
22 or modify the legal relationship existing between any of  
23 the schools, universities, and institutions under whose di-  
24 rection an institute is established with funds provided  
25 under this Act and the government of the State in which

1 it is located. Nothing in this Act shall in any way be con-  
2 strued to authorize Federal control or direction of edu-  
3 cation at any school, university, or institution.

4       “(b) The programs authorized by this Act are in-  
5 tended to enhance the Nation’s petroleum, mining, and  
6 mineral engineering education programs and to enhance  
7 educational programs in petroleum and mining exploration  
8 and to increase the number of individuals enrolled in and  
9 completing these programs. To achieve this intent, the  
10 Secretary and the Committee established by section 11  
11 shall receive the continuing advice and cooperation of all  
12 agencies of the Federal Government concerned with the  
13 identification, exploration, and development energy and  
14 mineral resources.

15       “(c) Nothing in this Act is intended to give or shall  
16 be construed as giving the Secretary any authority over  
17 mining and mineral resources research conducted by any  
18 agency of the Federal Government, or as repealing or di-  
19 minishing existing authorities or responsibilities of any  
20 agency of the Federal Government to plan and conduct,  
21 contract for, or assist in research in its area of responsi-  
22 bility and concern with regard to mining and mineral re-  
23 sources.

24       “(d) The schools, universities, and institutions receiv-  
25 ing funding under this Act shall generally make publicly

1 available the information and reports on projects com-  
2 pleted, in progress, or planned with funds provided under  
3 this Act. This information shall be made available on an  
4 annual basis. All uses, products, processes, patents, and  
5 other developments resulting from any research, dem-  
6 onstration, or experiment funded in whole or in part under  
7 this Act shall be made available promptly to the general  
8 public, subject to exception or limitation, if any, as the  
9 Secretary may find necessary in the public interest or na-  
10 tional security. Schools, universities, and institutions re-  
11 ceiving patents for inventions funded in whole or in part  
12 under this Act shall be governed by the applicable Federal  
13 law, except that one percent of gross revenues derived  
14 from such patents shall be paid by the schools and the  
15 institutions to the Federal Energy and Mineral Resources  
16 Professional Development Fund established by section  
17 6523(a) of the Ocean State Options Act of 2005.

18 **“SEC. 11. COMMITTEE ON PETROLEUM, MINING, AND MIN-**  
19 **ERAL ENGINEERING AND ENERGY AND MIN-**  
20 **ERAL RESOURCE EDUCATION.**

21 “(a) The Secretary shall appoint a Committee on Pe-  
22 troleum, Mining, and Mineral Engineering and Energy  
23 and Mineral Resource Education composed of—

24 “(1) the Assistant Secretary of the Interior re-  
25 sponsible for land and minerals management, or a

1 delegate of such Assistant Secretary, and not more  
2 than 16 other persons who are knowledgeable in the  
3 fields of mining and mineral resources research, in-  
4 cluding 2 university administrators one of whom  
5 shall be from historic and existing petroleum and  
6 mining schools; a community, technical, or tribal col-  
7 lege administrator; a career technical education edu-  
8 cator; 6 representatives equally distributed from the  
9 petroleum, mining, and aggregate industries; a work-  
10 ing miner; a working oilfield worker; a representative  
11 of the Interstate Oil and Gas Compact Commission;  
12 a representative from the Interstate Mining Compact  
13 Commission; a representative from the Western Gov-  
14 ernors Association; a representative of the State ge-  
15 ologists, and a representative of a State mining and  
16 reclamation agency. In making these 16 appoint-  
17 ments, the Secretary shall consult with interested  
18 groups.

19           “(2) The Assistant Secretary for Land and  
20 Minerals Management, in the capacity of the Chair-  
21 man of the Committee, may have present during  
22 meetings of the Committee representatives of Fed-  
23 eral agencies with responsibility for energy and min-  
24 erals resources management, energy and mineral re-  
25 source investigations, energy and mineral commodity

1 information, international trade in energy and min-  
2 eral commodities, mining regulation and mine safety  
3 research, and research into the development, produc-  
4 tion, and utilization of energy and mineral commod-  
5 ities.

6 “(b) The Committee shall consult with, and make rec-  
7 ommendations to, the Secretary on all matters relating to  
8 funding energy and mineral resources research and the  
9 awarding and allocation of funding made under this Act.  
10 The Secretary shall consult with, and consider rec-  
11 ommendations of, such Committee in such matters.

12 “(c) Committee members, other than officers or em-  
13 ployees of Federal, State, or local governments, shall be,  
14 for each day (including traveltime) during which they are  
15 performing Committee business, paid at a rate fixed by  
16 the Secretary but not in excess of the daily equivalent of  
17 the maximum rate of pay for level IV of the Executive  
18 Schedule under section 5136 of title 5, United States  
19 Code, and shall be fully reimbursed for travel, subsistence,  
20 and related expenses.

21 “(d) The Committee shall be chaired by the Assistant  
22 Secretary of the Interior responsible for land and minerals  
23 management. There shall also be elected a Vice Chairman  
24 by the Committee from among the members referred to  
25 in this section. The Vice Chairman shall perform such du-

1 ties as are determined to be appropriate by the committee,  
2 except that the Chairman of the Committee must person-  
3 ally preside at all meetings of the full Committee.

4 “(e) Following completion of the report required by  
5 section 385 of the Energy Policy Act of 2005, the Com-  
6 mittee shall consider the recommendations of the report,  
7 ongoing efforts in the schools, universities, and institu-  
8 tions receiving funding under this Act, the Federal and  
9 State Governments, and the private sector, and shall for-  
10 mulate and recommend to the Secretary a national plan  
11 for a program utilizing the fiscal resources provided under  
12 this Act. The Committee shall submit such plan to the  
13 Secretary for approval. Upon approval, the plan shall  
14 guide the Secretary and the Committee in their actions  
15 under this Act.

16 “(f) Section 10 of the Federal Advisory Committee  
17 Act (5 U.S.C. App.) shall not apply to the Committee.

18 **“SEC. 12. CAREER TECHNICAL EDUCATION.**

19 “(a) Up to 15 percent of the annual outlay of funds  
20 under this Act may be granted to schools or institutions  
21 including, but not limited to, colleges, universities, commu-  
22 nity colleges, tribal colleges, and technical institutes other  
23 than those described in sections 3, 4, 5, and 6.

24 “(b) The Secretary, as advised by the Committee es-  
25 tablished under section 11, shall determine the eligibility

1 of a school or institution to receive funding under this sec-  
2 tion using criteria that include—

3           “(1) the presence of a substantial program of  
4 training, including vocational education for individ-  
5 uals seeking to enter the oil and gas, coal mining,  
6 or mineral mining industries in a skilled technical  
7 trade offered by the schools or institutions referred  
8 to in subsection (a); or

9           “(2) the presence of a State-approved program  
10 of career technical education at a secondary school,  
11 offered cooperatively with a schools or institutions  
12 referred to in subsection (a) in one of the industrial  
13 sectors of—

14                   “(A) agriculture, forestry, or fisheries;

15                   “(B) utilities;

16                   “(C) construction;

17                   “(D) manufacturing; and

18                   “(E) transportation and warehousing.

19           “(c) Schools or institutions receiving funds under this  
20 section must show evidence of an institutional commit-  
21 ment for the purposes career technical education and pro-  
22 vide evidence that the school or institution can obtain in-  
23 dustrial cooperation in activities within the scope of this  
24 Act.

1       “(d) Schools or institutions receiving funds under  
2 this section must agree to maintain the programs for  
3 which the funding is sought for a period of 10 years begin-  
4 ning on the date the school or institution receives such  
5 funds, unless the Secretary finds that a shorter period of  
6 time is appropriate for the local labor market or is re-  
7 quired by State authorities.”.

8       **SEC. 6524. ONSHORE AND OFFSHORE MINERAL LEASE**  
9                               **FEES.**

10       Notwithstanding any other provision of law, the De-  
11 partment of the Interior is prohibited from charging fees  
12 applicable to actions on Federal onshore and offshore oil  
13 and gas, coal, geothermal, and other mineral leases, in-  
14 cluding transportation of any production from such leases,  
15 if such fees were not in existence on January 1, 2005.  
16 Fees in existence on that date may be increased by the  
17 amount of the increase in the Consumer Price Index since  
18 the last date that the fees were set, but such an increase  
19 shall only apply to a lease issued after the date of the  
20 increase.

21       **SEC. 6525. ATLANTIC AND PACIFIC OCS REGION HEAD-**  
22                               **QUARTERS.**

23       Not later than January 1, 2008, the Secretary of the  
24 Interior shall establish the headquarters for the Atlantic  
25 OCS Region and the headquarters for the Pacific OCS

1 Region within a State bordering the Atlantic OCS Region  
2 and a State bordering the Pacific OCS Region, respec-  
3 tively, from among the States bordering those Regions,  
4 that petitions by no later than July 1, 2007, for leasing  
5 covering at least 40 percent of the area of its Adjacent  
6 Zone within 100 miles of the coastline. Such headquarters  
7 shall be located within 25 miles of the coastline and shall  
8 be the permanent duty station for all Minerals Manage-  
9 ment Service personnel that on a daily basis spend on av-  
10 erage 60 percent or more of their time in performance of  
11 duties in support of the activities of the respective Region,  
12 except that the Minerals Management Service may house  
13 regional inspection staff in other locations. The Atlantic  
14 OCS Region and the Pacific OCS Region shall each be  
15 led by a Regional Director who shall be an employee with-  
16 in the Senior Executive Service.

17 **SEC. 6526. NATIONAL GEOLOGIC DATA AND MAPPING FUND**

18 **ACT OF 2005.**

19 (a) **SHORT TITLE.**—This section may be cited as the  
20 “National Geologic Data and Mapping Fund Act of  
21 2005”.

22 (b) **PURPOSES.**—The purpose of this section is to—  
23 (1) establish a fund to provide funding for geo-  
24 logic mapping and the preservation and use of geo-  
25 logic data;

1           (2) make available receipts derived from sales,  
2           bonus bids, and royalties from onshore and offshore  
3           gas, minerals, oil, and any additional form of energy  
4           exploration and development under the laws of the  
5           United States for the purposes of the such fund;

6           (3) distribute funds from such fund each fiscal  
7           year to the Secretary of the Interior and the States;  
8           and

9           (4) use the distributed funds to secure the nec-  
10          essary trained workforce, contractual services, and  
11          other support, including maintenance and capital in-  
12          vestments, to conduct geologic mapping and preserve  
13          and make geologic data available for use.

14          (c) DEFINITIONS.—In this section:

15           (1) GEOLOGIC FUND.—The term “Geologic  
16          Fund” means the National Geologic Data and Map-  
17          ping Fund established by subsection (d).

18           (2) STATE.—The term “State” means the State  
19          geological survey, the agency that acts as the State  
20          geological survey, or any other State government  
21          agency primarily responsible for geologic mapping or  
22          geologic data preservation (or both) within a State.

23          (d) ESTABLISHMENT AND USE OF NATIONAL GEO-  
24          LOGIC DATA AND MAPPING FUND.—

1           (1) GEOLOGIC FUND.—There is established in  
2 the Treasury a separate account to be known as the  
3 “National Geologic Data and Mapping Fund”.

4           (2) FUNDING.—The Secretary of the Treasury  
5 shall deposit in the Enhancement Fund—

6           (A) such sums as are provided by sections  
7 9(b)(4)(A)(iv), 9(b)(4)(B)(iv), 9(c)(4)(A)(iv),  
8 and 9(c)(4)(B)(iv) of the Outer Continental  
9 Shelf Lands Act, as amended by this Act;

10           (B)(i) during the period of October 1,  
11 2006, through September 30, 2015, 0.1 percent  
12 of all sums paid into the Treasury under sec-  
13 tion 35 of the Mineral Leasing Act (30 U.S.C.  
14 191), and

15           (ii) beginning October 1, 2015, and there-  
16 after, 0.5 percent of all sums paid into the  
17 Treasury under section 35 of the Mineral Leas-  
18 ing Act (30 U.S.C. 191); and

19           (C)(i) during the period of October 1,  
20 2006, through September 30, 2015, 0.1 percent  
21 of all sums paid into the Treasury from receipts  
22 derived from bonus bids and royalties from  
23 other mineral leasing on public lands, and

24           (ii) beginning October 1, 2015, and there-  
25 after, 0.5 percent of all sums paid into the

1 Treasury from receipts derived from bonus bids  
2 and royalties from other mineral leasing on  
3 public lands.

4 (3) INVESTMENTS.—The Secretary of the  
5 Treasury shall invest the amounts deposited under  
6 paragraph (2) and all accrued interest on the  
7 amounts deposited under paragraph (2) only in in-  
8 terest bearing obligations of the United States or in  
9 obligations guaranteed as to both principal and in-  
10 terest by the United States.

11 (4) AVAILABILITY TO SECRETARY OF THE IN-  
12 TERIOR.—

13 (A) IN GENERAL.—Beginning with fiscal  
14 year 2007, and in each fiscal year thereafter,  
15 one-third of amounts deposited into the Geo-  
16 logic Fund, together with the interest thereon,  
17 shall be available, without fiscal year limita-  
18 tions, to the Secretary of the Interior for use  
19 for the purposes described in subsection (b)(4).

20 (B) WITHDRAWALS AND TRANSFER OF  
21 FUNDS.—The Secretary of the Treasury shall  
22 withdraw such amounts from the Geologic Fund  
23 as the Secretary of the Interior may request,  
24 subject to the limitation in subparagraph (A),  
25 and transfer such amounts to the Secretary of

1 the Interior to be used, at the discretion of the  
2 Secretary of the Interior, by the Minerals Man-  
3 agement Service, the Bureau of Land Manage-  
4 ment, and the United States Geological Survey  
5 for the purposes described in subsection (b)(4).  
6 No funds distributed from the Geologic Fund  
7 may be used to purchase an interest in land.

8 (5) PAYMENT TO STATES.—

9 (A) IN GENERAL.—Beginning with fiscal  
10 year 2007, and in each fiscal year thereafter,  
11 two-thirds of amounts deposited into the Geo-  
12 logic Fund, together with the interest thereon,  
13 shall be available, without fiscal year limita-  
14 tions, to the States for use for the purposes de-  
15 scribed in subsection (b)(4).

16 (B) WITHDRAWALS AND TRANSFER OF  
17 FUNDS.—Within the first 90 days of each fiscal  
18 year, the Secretary of the Treasury shall with-  
19 draw amounts from the Geologic Fund and  
20 transfer such amounts to the States based on  
21 a formula devised by the Secretary of the Inte-  
22 rior based on the relative geologic mapping and  
23 data preservation needs of the States.

24 (C) USE OF PAYMENTS BY STATES.—Each  
25 State shall use the payments made under sub-

1 paragraph (B) only for carrying out projects  
2 and programs for the purposes described in  
3 subsection (b)(4). No funds distributed from  
4 the Geologic Fund may be used to purchase an  
5 interest in land.

6 (D) ENCOURAGEMENT OF USE OF PRIVATE  
7 FUNDS BY STATES.—Each State shall use the  
8 payments made under subparagraph (B) to le-  
9 verage private funds for carrying out projects  
10 for the purposes described in subsection (b)(4).

11 (e) REPORT TO CONGRESS.—Beginning in fiscal year  
12 2008 and continuing for each fiscal year thereafter, the  
13 Secretary of the Interior and each State receiving funds  
14 from the Geologic Fund shall submit a report to the Com-  
15 mittee on Energy and Natural Resources of the Senate  
16 and the Committee on Resources of the House of Rep-  
17 resentatives. Reports submitted to the Congress by the  
18 Secretary of the Interior and the States shall include de-  
19 tailed information regarding expenditures during the pre-  
20 vious fiscal year.

21 **SEC. 6527. LEASES FOR AREAS LOCATED WITHIN 100 MILES**  
22 **OF CALIFORNIA OR FLORIDA.**

23 (a) AUTHORIZATION TO CANCEL AND EXCHANGE  
24 CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION

1 ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN  
2 LEASES PRIOR TO JUNE 30, 2012.—

3 (1) AUTHORITY.—Effective 180 days after the  
4 date of enactment of this subtitle, the lessee of an  
5 existing oil and gas lease for an area located com-  
6 pletely within 100 miles of the coastline within the  
7 California or Florida Adjacent Zones shall have the  
8 option, without compensation, of exchanging such  
9 lease for a new oil and gas lease having a primary  
10 term of 5 years. For the area subject to the new  
11 lease, the lessee may select any unleased tract at  
12 least part of which is located within the area be-  
13 tween 100 and 125 miles from the coastline, and  
14 completely beyond 100 miles from the coastline,  
15 within the same Adjacent State's Adjacent Zone as  
16 the lease being exchanged.

17 (2) ADMINISTRATIVE PROCESS.—The Secretary  
18 of the Interior shall establish a reasonable adminis-  
19 trative process through which a lessee may exercise  
20 its option to exchange an oil and gas lease for a new  
21 oil and gas lease as provided for in this section.  
22 Such exchanges, including the issuance of new  
23 leases, shall not be considered to be major Federal  
24 actions for purposes of the National Environmental  
25 Policy Act of 1969 (42 U.S.C. 4321 et seq.). Fur-

1 ther, such exchanges conducted in accordance with  
2 this section are deemed to be in compliance all provi-  
3 sions of the Outer Continental Shelf Lands Act (43  
4 U.S.C. 1331 et seq.). The Secretary shall issue a  
5 new lease in exchange for the lease being exchanged  
6 notwithstanding that the area that will be subject to  
7 the lease may be withdrawn from leasing under the  
8 Outer Continental Shelf Lands Act or otherwise un-  
9 available for leasing under the provisions of any  
10 other law.

11 (3) OPERATING RESTRICTIONS.—A new lease  
12 issued in exchange for an existing lease under this  
13 section shall be subject to such national defense op-  
14 erating restrictions on the OCS tract covered by the  
15 new lease as may be applicable upon issuance.

16 (4) PRIORITY.—The Secretary shall give pri-  
17 ority in the lease exchange process based on the  
18 amount of the original bonus bid paid for the  
19 issuance of each lease to be exchanged. The Sec-  
20 retary shall allow leases covering partial tracts to be  
21 exchanged for leases covering full tracts conditioned  
22 upon payment of additional bonus bids on a per-acre  
23 basis as determined by the average per acre of the  
24 original bonus bid per acre for the partial tract  
25 being exchanged.

1           (5) EXPLORATION PLANS.—Any exploration  
2 plan submitted to the Secretary of the Interior after  
3 the date of the enactment of this Act and before  
4 July 1, 2012, for an oil and gas lease for an area  
5 wholly within 100 miles of the coastline within the  
6 California Adjacent Zone or Florida Adjacent Zone  
7 shall not be treated as received by the Secretary  
8 until the earlier of July 1, 2012, or the date on  
9 which a petition by the Adjacent State for oil and  
10 gas leasing covering the area within which is located  
11 the area subject to the oil and gas lease was ap-  
12 proved.

13           (b) FURTHER LEASE CANCELLATION AND EX-  
14 CHANGE PROVISIONS.—

15           (1) CANCELLATION OF LEASE.—As part of the  
16 lease exchange process under this section, the Sec-  
17 retary shall cancel a lease that is exchanged under  
18 this section.

19           (2) CONSENT OF LESSEES.—All lessees holding  
20 an interest in a lease must consent to cancellation  
21 of their leasehold interests in order for the lease to  
22 be cancelled and exchanged under this section.

23           (3) WAIVER OF RIGHTS.—As a prerequisite to  
24 the exchange of a lease under this section, the lessee

1 must waive any rights to bring any litigation against  
2 the United States related to the transaction.

3 (4) PLUGGING AND ABANDONMENT.—The plug-  
4 ging and abandonment requirements for any wells  
5 located on any lease to be cancelled and exchanged  
6 under this section must be complied with by the les-  
7 sees prior to the cancellation and exchange.

8 (c) AREA PARTIALLY WITHIN 100 MILES OF FLOR-  
9 IDA.—An existing oil and gas lease for an area located  
10 partially within 100 miles of the coastline within the Flor-  
11 ida Adjacent Zone may only be developed and produced  
12 using wells drilled from well-head locations at least 100  
13 miles from the coastline to any bottom-hole location on  
14 the area of the lease.

15 (d) EXISTING OIL AND GAS LEASE DEFINED.—In  
16 this section the term “existing oil and gas lease” means  
17 an oil and gas lease in effect on the date of the enactment  
18 of this Act.

## 19 **Subtitle F—Sale and Conveyance of** 20 **Federal Land**

### 21 **SEC. 6601. COLLECTION OF RECEIPTS FROM THE SALE OF** 22 **FEDERAL LANDS.**

23 (a) IN GENERAL.—Notwithstanding any other law,  
24 the Secretary shall make the lands described in subsection  
25 (b) available for immediate sale through a competitive sale

1 process at fair market value. Requirements under the Na-  
2 tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
3 et seq.) shall not apply to the sale of lands under this  
4 section.

5 (b) LANDS DESCRIBED.—The lands referred to in  
6 subsection (a) are the following:

7 (1) Poplar Point (Transfer and Conveyance of  
8 Properties in the District of Columbia, Map Number  
9 869/80460, Dated July 2005, p. 28 of 28).

10 (2) U.S. Reservations 44, 45, 46, 47, 48 and  
11 49 (Map Number 869/80460, Dated July 2005, p.  
12 13 of 28).

13 (3) U.S. Reservation 251 (Map Number 869/  
14 80460, Dated July 2005, p. 14 of 28).

15 (4) U.S. Reservation 8 (Map Number 869/  
16 80460, Dated July 2005, p. 15 of 28).

17 (5) U.S. Reservation 17A (Map Number 869/  
18 80460, Dated July 2005, p. 20 of 28).

19 (6) U.S. Reservation 484 (Map Number 869/  
20 80460, Dated July 2005, p. 21 of 28).

21 (7) U.S. Reservation 721, 722 and 723 (Map  
22 Number 869/80460, Dated July 2005, p. 25 of 28).

23 (8) Certain land adjacent to Robert F. Kennedy  
24 Stadium Parking Lot (Transfer and Conveyance of

1 Properties in the District of Columbia, Map Number  
2 869/80460, Dated July 2005, p. 26 of 28).

3 (9) United States Reservation 243, 244, 245,  
4 and 247 (Transfer and Conveyance of Properties in  
5 the District of Columbia, Map Number 869/80460,  
6 Dated July 2005, p. 22 of 28).

7 The Secretary may retain from sale proceeds and spend  
8 without further appropriation up to \$1,000,000 each year  
9 to implement land sales under this subsection, including  
10 hiring contractors and appraisers

11 (c) POPLAR POINT.—

12 (1) RETENTION OF FUNDS.—The Secretary  
13 may retain \$10,000,000 from funds received from  
14 the sale of land under subsection (b)(1) and spend  
15 such funds without further appropriations for the  
16 purposes of complying with subparagraph (2).

17 (2) CONTINUITY OF OPERATION.—Before the  
18 sale and development of land referred to in subpara-  
19 graph (b)(1), the Secretary shall ensure that the ex-  
20 isting facilities and related properties (including nec-  
21 essary easements and utilities related thereto) occu-  
22 pied or otherwise used by the National Park Service  
23 are either withheld from any sale and remain in op-  
24 eration at its current location or will be relocated to  
25 suitable replacement facilities along the Anacostia

1 River in the District of Columbia using funds made  
2 available by subparagraph (c)(1).

3 (d) CONVEYANCE OF LANDS TO THE DISTRICT OF  
4 COLUMBIA.—

5 (1) IN GENERAL.—Notwithstanding any other  
6 law, the Secretary shall immediately convey all right,  
7 title, and interest of the United States in the lands  
8 described in this subsection to the District of Colum-  
9 bia upon enactment of this section. Requirements  
10 under the National Environmental Policy Act (42  
11 U.S.C. 4321 et seq.) shall not apply to the convey-  
12 ance of lands under this subsection.

13 (2) LANDS DESCRIBED.—The lands referred to  
14 in this subsection are as follows:

15 (A) United States Reservation 128, 129,  
16 130, 298 and 299 (Transfer and Conveyance of  
17 Properties in the District of Columbia, Map  
18 Number 869/80460, Dated July 2005, p. 23 of  
19 28).

20 (B) United States Reservation 174 (Map  
21 Number 869/80460, Dated July 2005, p. 27 of  
22 28).

23 (C) United States Reservation 277A and  
24 277C (Map Number 869/80460, Dated July  
25 2005, p. 16 of 28).

1 (D) United States Reservation 343D and  
2 343E (Map Number 869/80460, Dated July  
3 2005, p. 24 or 28).

4 (E) United States Reservation 404 (Map  
5 Number 869/80460, Dated July 2005, p. 12 of  
6 28).

7 (F) United States Reservation 451 (Map  
8 Number 869/80460, Dated July 2005, p. 11 of  
9 28).

10 (G) United States Reservation 470 (Trans-  
11 fer and Conveyance of Properties in the District  
12 of Columbia, Map Number 869/80460, Dated  
13 July 2005, p. 17 of 28).

14 (e) TRANSFER OF ADMINISTRATIVE JURISDICTION  
15 OVER CERTAIN PROPERTIES.—

16 (1) IN GENERAL.—Upon the date of the enact-  
17 ment of this subsection, administrative jurisdiction  
18 over each of the following properties (owned by the  
19 United States and as depicted on listed maps) is  
20 hereby transferred from the District of Columbia to  
21 the United States for administration by the Sec-  
22 retary of the Interior through the Director of the  
23 National Park Service:

24 (A) An unimproved portion of Audubon  
25 Terrace Northwest, located east of Linnean Av-

1 enue Northwest, that is within U.S. Reservation  
2 402 (Audubon Terrace, NW, Transfer and Con-  
3 veyance of Properties in the District of Colum-  
4 bia, Map Number 869/80460, Dated July 2005,  
5 p. 2 of 28) .

6 (B) An unimproved portion of Barnaby  
7 Street Northwest, north of Aberfoyle Place  
8 Northwest, that abuts U.S. Reservation 545  
9 (Barnaby Avenue, NW, Map Number 869/  
10 80460, Dated July 2005, p. 3 of 28).

11 (C) A portion of Canal Street Southwest,  
12 and a portion of V Street Southwest, each  
13 which abuts U.S. Reservation (Canal and V  
14 Streets, SW, Map Number 869/80460, Dated  
15 July 2005, p. 3 of 28).

16 (D) Unimproved streets and alleys at Fort  
17 Circle Park located within the boundaries of  
18 U.S. Reservation 497 (Fort Circle Park, Map  
19 Number 869/80460, Dated July 2005, p. 5 of  
20 28)''.

21 (E) An unimproved portion of Western Av-  
22 enue Northwest, north of Oregon Avenue  
23 Northwest, that abuts U.S. Reservation 339  
24 (Western Avenue, NW, Map Number 869/  
25 80460, Dated July 2005, p. 6 of 28).

1 (F) An unimproved portion of 17th Street  
2 Northwest, south of Shepard Street Northwest,  
3 that abuts U.S. Reservation 339 (17th Street,  
4 NW, Map Number 869/80460, Dated July  
5 2005, p. 7 of 28).

6 (G) An unimproved portion of 30th Street  
7 Northwest, north of Broad Branch Road,  
8 Northwest, that is within the boundaries of  
9 U.S. Reservation 515 (30th Street, NW, Map  
10 Number 869/80460, Dated July 2005, p. 8 of  
11 28).

12 (H) Land over I-395 at Washington Ave-  
13 nue, Southwest (Lands over I-395 at Wash-  
14 ington Avenue, SW, Map Number 869/80460,  
15 Dated July 2005, p. 9 of 28).

16 (I) A portion of U.S. Reservation 357 at  
17 Whitehaven Parkway Northwest, previously  
18 transferred to the District of Columbia in con-  
19 junction with the former proposal for a resi-  
20 dence for the Mayor of the District of Columbia  
21 (Portion of U.S. Reservation 357, Transfer and  
22 Conveyance of Properties in the District of Co-  
23 lumbia, Map Number 869/80460, Dated July  
24 2005, p. 10 of 28).

1           (2) USE OF CERTAIN PROPERTY FOR MEMO-  
2           RIAL.—In the case of the property for which admin-  
3           istrative jurisdiction is transferred under paragraph  
4           (1)(H), the property shall be used as the site for the  
5           establishment of a memorial to honor disabled vet-  
6           erans of the United States Armed Forces authorized  
7           to be established by the Disabled Veterans’ LIFE  
8           Memorial Foundation by Public Law 106–348 (114  
9           Stat. 1358; 40 U.S.C. 8903 note), except that the  
10          District of Columbia shall retain administrative ju-  
11          risdiction over the subsurface area beneath the site  
12          for tunnels, walls, footings, and related facilities.

13       **TITLE VII—COMMITTEE ON**  
14       **TRANSPORTATION AND IN-**  
15       **FRASTRUCTURE**

16       **SEC. 7001. EXTENSION OF VESSEL TONNAGE DUTIES.**

17          (a) EXTENSION OF DUTIES.—Section 36 of the Act  
18          entitled “An Act to provide revenue, equalize duties and  
19          encourage the industries of the United States, and for  
20          other purposes”, approved August 5, 1909 (36 Stat. 111;  
21          46 U.S.C. App. 121), is amended—

22               (1) by striking “9 cents per ton” and all that  
23               follows through “2002,” the first place it appears  
24               and inserting “4.5 cents per ton, not to exceed in

1 the aggregate 22.5 cents per ton in any one year, for  
2 fiscal years 2006 through 2010,”; and

3 (2) by striking “27 cents per ton” and all that  
4 follows through “2002,” and inserting “13.5 cents  
5 per ton, not to exceed 67.5 cents per ton per annum,  
6 for fiscal years 2006 through 2010,”.

7 (b) CONFORMING AMENDMENT.—The Act entitled  
8 “An Act concerning tonnage duties on vessels entering  
9 otherwise than by sea”, approved March 8, 1910 (36 Stat.  
10 234; 46 U.S.C. App. 132), is amended by striking “9 cents  
11 per ton” and all that follows through “and 2 cents” and  
12 inserting “4.5 cents per ton, not to exceed in the aggre-  
13 gate 22.5 cents per ton in any one year, for fiscal years  
14 2006 through 2010, and 2 cents”.

15 (c) OFFSETTING RECEIPTS.—Increased tonnage  
16 charges collected as a result of the amendments made by  
17 subsection (a) shall be deposited in the general fund of  
18 the Treasury as offsetting receipts of the department in  
19 which the Coast Guard is operating and ascribed to Coast  
20 Guard activities related to marine safety, search and res-  
21 cue, and aids to navigation.

1           **TITLE VIII—COMMITTEE ON**  
 2                           **WAYS AND MEANS**

3   **SEC. 8001. SHORT TITLE.**

4           This title may be cited as the “Work, Marriage, and  
 5 Family Promotion Reconciliation Act of 2005”.

6   **SEC. 8002. TABLE OF CONTENTS.**

7           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  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the amendment or repeal shall be considered to be  
6 made to a section or other provision of the Social Security  
7 Act.

8 **SEC. 8004. FINDINGS.**

9 The Congress makes the following findings:

10 (1) The Temporary Assistance for Needy Fami-  
11 lies (TANF) Program established by the Personal  
12 Responsibility and Work Opportunity Reconciliation  
13 Act of 1996 (Public Law 104–193) has succeeded in  
14 moving families from welfare to work and reducing  
15 child poverty.

16 (A) There has been a dramatic increase in  
17 the employment of current and former welfare  
18 recipients. The percentage of working recipients  
19 reached an all-time high in fiscal year 1999 and  
20 continued steady in fiscal years 2000 and 2001.

21 In fiscal year 2003, 31.3 percent of adult re-

1 recipients were counted as meeting the work par-  
2 ticipation requirements. All States but one met  
3 the overall participation rate standard in fiscal  
4 year 2003, as did the District of Columbia and  
5 Puerto Rico.

6 (B) Earnings for welfare recipients re-  
7 maining on the rolls have also increased signifi-  
8 cantly, as have earnings for female-headed  
9 households. The increases have been particu-  
10 larly large for the bottom 2 income quintiles,  
11 that is, those women who are most likely to be  
12 former or present welfare recipients.

13 (C) Welfare dependency has plummeted.  
14 As of June 2004, 1,969,909 families and  
15 4,727,291 individuals were receiving assistance.  
16 Accordingly, the number of families in the wel-  
17 fare caseload and the number of individuals re-  
18 ceiving cash assistance declined 55 percent and  
19 61 percent, respectively, since the enactment of  
20 TANF.

21 (D) The child poverty rate continued to de-  
22 cline between 1996 and 2003, falling 14 percent  
23 from 20.5 to 17.6 percent. Child poverty rates  
24 for African-American and Hispanic children

1           have also fallen dramatically during the past 7  
2           years.

3           (2) As a Nation, we have made substantial  
4           progress in reducing teen pregnancies and births,  
5           slowing increases in nonmarital childbearing, and  
6           improving child support collections and paternity es-  
7           tablishment.

8                   (A) The birth rate to teenagers declined 30  
9                   percent from its high in 1991 to 2002. The  
10                   2002 teenage birth rate of 43.0 per 1,000  
11                   women aged 15–19 is the lowest recorded birth  
12                   rate for teenagers.

13                   (B) During the period from 1991 through  
14                   2001, teenage birth rates fell in all States and  
15                   the District of Columbia, Puerto Rico, Guam,  
16                   and the Virgin Islands. Declines also have  
17                   spanned age, racial, and ethnic groups. There  
18                   has been success in lowering the birth rate for  
19                   both younger and older teens. The birth rate  
20                   for those 15–17 years of age has declined 40  
21                   percent since 1991, and the rate for those 18  
22                   and 19 has declined 23 percent. The rate for  
23                   African American teens—until recently the  
24                   highest—has declined the most—42 percent  
25                   from 1991 through 2002.

1           (C) Since the enactment of the Personal  
2           Responsibility and Work Opportunity Reconcili-  
3           ation Act of 1996, child support collections  
4           within the child support enforcement system  
5           have grown every year, increasing from  
6           \$12,000,000,000 in fiscal year 1996 to over  
7           \$21,000,000,000 in fiscal year 2003. The num-  
8           ber of paternities established or acknowledged  
9           in fiscal year 2003 (over 1,500,000) includes a  
10          more than 100 percent increase through in-hos-  
11          pital acknowledgement programs—862,043 in  
12          2003 compared to 324,652 in 1996. Child sup-  
13          port collections were made in nearly 8,000,000  
14          cases in fiscal year 2003, significantly more  
15          than the almost 4,000,000 cases having a col-  
16          lection in 1996.

17          (3) The Personal Responsibility and Work Op-  
18          portunity Reconciliation Act of 1996 gave States  
19          great flexibility in the use of Federal funds to de-  
20          velop innovative programs to help families leave wel-  
21          fare and begin employment and to encourage the  
22          formation of 2-parent families.

23          (A) Total Federal and State TANF ex-  
24          penditures in fiscal year 2003 were  
25          \$26,300,000,000, up from \$25,400,000,000 in

1 fiscal year 2002 and \$22,600,000,000 in fiscal  
2 year 1999. This increased spending is attrib-  
3 utable to significant new investments in sup-  
4 portive services in the TANF program, such as  
5 child care and activities to support work.

6 (B) Since the welfare reform effort began  
7 there has been a dramatic increase in work par-  
8 ticipation (including employment, community  
9 service, and work experience) among welfare re-  
10 cipients, as well as an unprecedented reduction  
11 in the caseload because recipients have left wel-  
12 fare for work.

13 (C) States are making policy choices and  
14 investment decisions best suited to the needs of  
15 their citizens.

16 (i) To expand aid to working families,  
17 almost all States disregard a portion of a  
18 family's earned income when determining  
19 benefit levels.

20 (ii) Most States increased the limits  
21 on countable assets above the former Aid  
22 to Families with Dependent Children  
23 (AFDC) program. Every State has in-  
24 creased the vehicle asset level above the

1 prior AFDC limit for a family's primary  
2 automobile.

3 (iii) States are experimenting with  
4 programs to promote marriage and pater-  
5 nal involvement. Over half of the States  
6 have eliminated restrictions on 2-parent  
7 families. Many States use TANF, child  
8 support, or State funds to support commu-  
9 nity-based activities to help fathers become  
10 more involved in their children's lives or  
11 strengthen relationships between mothers  
12 and fathers.

13 (4) However, despite this success, there is still  
14 progress to be made. Policies that support and pro-  
15 mote more work, strengthen families, and enhance  
16 State flexibility are necessary to continue to build on  
17 the success of welfare reform.

18 (A) Significant numbers of welfare recipi-  
19 ents still are not engaged in employment-related  
20 activities. While all States have met the overall  
21 work participation rates required by law, in an  
22 average month, only 41 percent of all families  
23 with an adult participated in work activities  
24 that were countable toward the State's partici-  
25 pation rate. In fiscal year 2003, four jurisdic-

1 tions failed to meet the more rigorous 2-parent  
2 work requirements, and 25 jurisdictions (States  
3 and territories) are not subject to the 2-parent  
4 requirements, most because they moved their 2-  
5 parent cases to separate State programs where  
6 they are not subject to a penalty for failing the  
7 2-parent rates.

8 (B) In 2002, 34 percent of all births in the  
9 U.S. were to unmarried women. And, with  
10 fewer teens entering marriage, the proportion of  
11 births to unmarried teens has increased dra-  
12 matically (80 percent in 2002 versus 30 percent  
13 in 1970). The negative consequences of out-of-  
14 wedlock birth on the mother, the child, the fam-  
15 ily, and society are well documented. These in-  
16 clude increased likelihood of welfare depend-  
17 ency, increased risks of low birth weight, poor  
18 cognitive development, child abuse and neglect,  
19 and teen parenthood, and decreased likelihood  
20 of having an intact marriage during adulthood.

21 (C) There has been a dramatic rise in co-  
22 habitation as marriages have declined. It is esti-  
23 mated that 40 percent of children are expected  
24 to live in a cohabiting-parent family at some  
25 point during their childhood. Children in single-

1 parent households and cohabiting-parent house-  
2 holds are at much higher risk of child abuse  
3 than children in intact married families.

4 (D) Children who live apart from their bio-  
5 logical fathers, on average, are more likely to be  
6 poor, experience educational, health, emotional,  
7 and psychological problems, be victims of child  
8 abuse, engage in criminal behavior, and become  
9 involved with the juvenile justice system than  
10 their peers who live with their married, biologi-  
11 cal mother and father. A child living with a sin-  
12 gle mother is nearly 5 times as likely to be poor  
13 as a child living in a married-couple family. In  
14 2003, in married-couple families, the child pov-  
15 erty rate was 8.6 percent, and in households  
16 headed by a single mother the poverty rate was  
17 41.7 percent.

18 (5) Therefore, it is the sense of the Congress  
19 that increasing success in moving families from wel-  
20 fare to work, as well as in promoting healthy mar-  
21 riage and other means of improving child well-being,  
22 are very important Government interests and the  
23 policy contained in part A of title IV of the Social  
24 Security Act (as amended by this title) is intended  
25 to serve those ends.

## Subtitle A—TANF

### 2 SEC. 8101. PURPOSES.

3 Section 401(a) (42 U.S.C. 601(a)) is amended—

4 (1) in the matter preceding paragraph (1), by  
5 striking “increase” and inserting “improve child  
6 well-being by increasing”;

7 (2) in paragraph (1), by inserting “and serv-  
8 ices” after “assistance”;

9 (3) in paragraph (2), by striking “parents on  
10 government benefits” and inserting “families on gov-  
11 ernment benefits and reduce poverty”; and

12 (4) in paragraph (4), by striking “two-parent  
13 families” and inserting “healthy, 2-parent married  
14 families, and encourage responsible fatherhood”.

### 15 SEC. 8102. FAMILY ASSISTANCE GRANTS.

16 (a) EXTENSION OF AUTHORITY.—Section  
17 403(a)(1)(A) (42 U.S.C. 603(a)(1)(A)) is amended—

18 (1) by striking “1996, 1997, 1998, 1999, 2000,  
19 2001, 2002, and 2003” and inserting “2006  
20 through 2010”; and

21 (2) by inserting “payable to the State for the  
22 fiscal year” before the period.

23 (b) STATE FAMILY ASSISTANCE GRANT.—Section  
24 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by

1 striking “fiscal year 2003” and inserting “each of fiscal  
2 years 2006 through 2010”.

3 (c) MATCHING GRANTS FOR THE TERRITORIES.—  
4 Section 1108(b)(2) (42 U.S.C. 1308(b)(2)) is amended by  
5 striking “1997 through 2003” and inserting “2006  
6 through 2010”.

7 **SEC. 8103. PROMOTION OF FAMILY FORMATION AND**  
8 **HEALTHY MARRIAGE.**

9 (a) STATE PLANS.—Section 402(a)(1)(A) (42 U.S.C.  
10 602(a)(1)(A)) is amended by adding at the end the fol-  
11 lowing:

12 “(vii) Encourage equitable treatment  
13 of married, 2-parent families under the  
14 program referred to in clause (i).”.

15 (b) HEALTHY MARRIAGE PROMOTION GRANTS; RE-  
16 PEAL OF BONUS FOR REDUCTION OF ILLEGITIMACY  
17 RATIO.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is  
18 amended to read as follows:

19 “(2) HEALTHY MARRIAGE PROMOTION  
20 GRANTS.—

21 “(A) AUTHORITY.—The Secretary shall  
22 award competitive grants to States, territories,  
23 and tribal organizations for not more than 50  
24 percent of the cost of developing and imple-

1           menting innovative programs to promote and  
2           support healthy, married, 2-parent families.

3           “(B) HEALTHY MARRIAGE PROMOTION AC-  
4           TIVITIES.—Funds provided under subparagraph  
5           (A) shall be used to support any of the fol-  
6           lowing programs or activities:

7                   “(i) Public advertising campaigns on  
8                   the value of marriage and the skills needed  
9                   to increase marital stability and health.

10                   “(ii) Education in high schools on the  
11                   value of marriage, relationship skills, and  
12                   budgeting.

13                   “(iii) Marriage education, marriage  
14                   skills, and relationship skills programs,  
15                   that may include parenting skills, financial  
16                   management, conflict resolution, and job  
17                   and career advancement, for non-married  
18                   pregnant women and non-married expect-  
19                   ant fathers.

20                   “(iv) Pre-marital education and mar-  
21                   riage skills training for engaged couples  
22                   and for couples or individuals interested in  
23                   marriage.

1           “(v) Marriage enhancement and mar-  
2           riage skills training programs for married  
3           couples.

4           “(vi) Divorce reduction programs that  
5           teach relationship skills.

6           “(vii) Marriage mentoring programs  
7           which use married couples as role models  
8           and mentors in at-risk communities.

9           “(viii) Programs to reduce the dis-  
10          incentives to marriage in means-tested aid  
11          programs, if offered in conjunction with  
12          any activity described in this subpara-  
13          graph.

14          “(C) VOLUNTARY PARTICIPATION.—

15               “(i) IN GENERAL.—Participation in a  
16               program or activity described in any of  
17               clauses (iii) through (viii) of subparagraph  
18               (B) shall be voluntary.

19               “(ii) REQUIREMENTS FOR RECEIPT OF  
20               FUNDS.—The Secretary may not award a  
21               grant under this paragraph to an applicant  
22               for the grant, unless—

23                       “(I) the application for the grant  
24                       describes—

1           “(aa) how the programs or  
2           activities proposed in the applica-  
3           tion will address, as appropriate,  
4           issues of domestic violence; and

5           “(bb) what the applicant will  
6           do, to the extent relevant, to en-  
7           sure that participation in the  
8           programs or activities is vol-  
9           untary, and to inform potential  
10          participants that their participa-  
11          tion is voluntary; and

12          “(II) the applicant agrees that,  
13          as a condition of receipt of the grant,  
14          the applicant will consult with experts  
15          in domestic violence or relevant com-  
16          munity domestic violence coalitions in  
17          developing the programs and activities  
18          funded with the grant.

19          “(D) APPROPRIATION.—Out of any money  
20          in the Treasury of the United States not other-  
21          wise appropriated, there are appropriated for  
22          each of fiscal years 2006 through 2010  
23          \$100,000,000 for grants under this para-  
24          graph.”.

1 (c) COUNTING OF SPENDING ON NON-ELIGIBLE  
2 FAMILIES TO PREVENT AND REDUCE INCIDENCE OF  
3 OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION  
4 AND MAINTENANCE OF HEALTHY, 2-PARENT MARRIED  
5 FAMILIES, OR ENCOURAGE RESPONSIBLE FATHER-  
6 HOOD.—Section 409(a)(7)(B)(i) (42 U.S.C.  
7 609(a)(7)(B)(i)) is amended by adding at the end the fol-  
8 lowing:

9 “(V) COUNTING OF SPENDING  
10 ON NON-ELIGIBLE FAMILIES TO PRE-  
11 VENT AND REDUCE INCIDENCE OF  
12 OUT-OF-WEDLOCK BIRTHS, ENCOUR-  
13 AGE FORMATION AND MAINTENANCE  
14 OF HEALTHY, 2-PARENT MARRIED  
15 FAMILIES, OR ENCOURAGE RESPON-  
16 SIBLE FATHERHOOD.—The term  
17 ‘qualified State expenditures’ includes  
18 the total expenditures by the State  
19 during the fiscal year under all State  
20 programs for a purpose described in  
21 paragraph (3) or (4) of section  
22 401(a).”.

1 **SEC. 8104. SUPPLEMENTAL GRANT FOR POPULATION IN-**  
2 **CREASES IN CERTAIN STATES.**

3 Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amend-  
4 ed—

5 (1) in subparagraph (E)—

6 (A) by striking “1998, 1999, 2000, and  
7 2001” and inserting “2006 through 2009”; and

8 (B) by striking “, in a total amount not to  
9 exceed \$800,000,000”;

10 (2) in subparagraph (G), by striking “2001”  
11 and inserting “2009”; and

12 (3) by striking subparagraph (H) and inserting  
13 the following:

14 “(H) FURTHER PRESERVATION OF GRANT  
15 AMOUNTS.—A State that was a qualifying State  
16 under this paragraph for fiscal year 2004 or  
17 any prior fiscal year shall be entitled to receive  
18 from the Secretary for each of fiscal years 2006  
19 through 2009 a grant in an amount equal to  
20 the amount required to be paid to the State  
21 under this paragraph for the most recent fiscal  
22 year for which the State was a qualifying  
23 State.”.

24 **SEC. 8105. ELIMINATION OF HIGH PERFORMANCE BONUS.**

25 Section 403(a) (42 U.S.C. 603(a)) is amended by  
26 striking paragraph (4).

1 **SEC. 8106. CONTINGENCY FUND.**

2 (a) DEPOSITS INTO FUND.—Section 403(b)(2) (42  
3 U.S.C. 603(b)(2)) is amended—

4 (1) by striking “1997, 1998, 1999, 2000, 2001,  
5 2002, and 2003” and inserting “2006 through  
6 2010”; and

7 (2) by striking all that follows  
8 “\$2,000,000,000” and inserting a period.

9 (b) GRANTS.—Section 403(b)(3)(C)(ii) (42 U.S.C.  
10 603(b)(3)(C)(ii)) is amended by striking “fiscal years  
11 1997 through 2006” and inserting “fiscal years 2006  
12 through 2010”.

13 (c) DEFINITION OF NEEDY STATE.—Clauses (i) and  
14 (ii) of section 403(b)(5)(B) (42 U.S.C. 603(b)(5)(B)) are  
15 amended by inserting after “1996” the following: “and the  
16 Food Stamp Act of 1977 as in effect during the cor-  
17 responding 3-month period in the fiscal year preceding  
18 such most recently concluded 3-month period”.

19 (d) ANNUAL RECONCILIATION: FEDERAL MATCHING  
20 OF STATE EXPENDITURES ABOVE “MAINTENANCE OF  
21 EFFORT” LEVEL.—Section 403(b)(6) (42 U.S.C.  
22 603(b)(6)) is amended—

23 (1) in subparagraph (A)(ii)—

24 (A) by adding “and” at the end of sub-  
25 clause (I);

1 (B) by striking “; and” at the end of sub-  
2 clause (II) and inserting a period; and

3 (C) by striking subclause (III);

4 (2) in subparagraph (B)(i)(II), by striking all  
5 that follows “section 409(a)(7)(B)(iii)” and insert-  
6 ing a period;

7 (3) by amending subparagraph (B)(ii)(I) to  
8 read as follows:

9 “(I) the qualified State expendi-  
10 tures (as defined in section  
11 409(a)(7)(B)(i)) for the fiscal year;  
12 plus”; and

13 (4) by striking subparagraph (C).

14 (e) CONSIDERATION OF CERTAIN CHILD CARE EX-  
15 PENDITURES IN DETERMINING STATE COMPLIANCE  
16 WITH CONTINGENCY FUND MAINTENANCE OF EFFORT  
17 REQUIREMENT.—Section 409(a)(10) (42 U.S.C.  
18 609(a)(10)) is amended—

19 (1) by striking “(other than the expenditures  
20 described in subclause (I)(bb) of that paragraph))  
21 under the State program funded under this part”  
22 and inserting a close parenthesis; and

23 (2) by striking “excluding any amount ex-  
24 pended by the State for child care under subsection

1 (g) or (i) of section 402 (as in effect during fiscal  
2 year 1994) for fiscal year 1994.”.

3 (f) EFFECTIVE DATE.—The amendments made by  
4 subsections (c), (d), and (e) shall take effect on October  
5 1, 2007.

6 **SEC. 8107. USE OF FUNDS.**

7 (a) GENERAL RULES.—Section 404(a)(2) (42 U.S.C.  
8 604(a)(2)) is amended by striking “in any manner that”  
9 and inserting “for any purposes or activities for which”.

10 (b) TREATMENT OF INTERSTATE IMMIGRANTS.—

11 (1) STATE PLAN PROVISION.—Section  
12 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended  
13 by striking clause (i) and redesignating clauses (ii)  
14 through (iv) as clauses (i) through (iii), respectively.

15 (2) USE OF FUNDS.—Section 404 (42 U.S.C.  
16 604) is amended by striking subsection (c).

17 (c) INCREASE IN AMOUNT TRANSFERABLE TO CHILD  
18 CARE.—Section 404(d)(1) (42 U.S.C. 604(d)(1)) is  
19 amended by striking “30” and inserting “50”.

20 (d) INCREASE IN AMOUNT TRANSFERABLE TO TITLE  
21 XX PROGRAMS.—Section 404(d)(2)(B) (42 U.S.C.  
22 604(d)(2)(B)) is amended to read as follows:

23 “(B) APPLICABLE PERCENT.—For pur-  
24 poses of subparagraph (A), the applicable per-

1 cent is 10 percent for fiscal year 2006 and each  
2 succeeding fiscal year.”.

3 (e) CLARIFICATION OF AUTHORITY OF STATES TO  
4 USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS  
5 TO PROVIDE TANF BENEFITS AND SERVICES.—Section  
6 404(e) (42 U.S.C. 604(e)) is amended to read as follows:

7 “(e) AUTHORITY TO CARRYOVER OR RESERVE CER-  
8 TAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FU-  
9 TURE CONTINGENCIES.—

10 “(1) CARRYOVER.—A State or tribe may use a  
11 grant made to the State or tribe under this part for  
12 any fiscal year to provide, without fiscal year limita-  
13 tion, any benefit or service that may be provided  
14 under the State or tribal program funded under this  
15 part.

16 “(2) CONTINGENCY RESERVE.—A State or tribe  
17 may designate any portion of a grant made to the  
18 State or tribe under this part as a contingency re-  
19 serve for future needs, and may use any amount so  
20 designated to provide, without fiscal year limitation,  
21 any benefit or service that may be provided under  
22 the State or tribal program funded under this part.  
23 If a State or tribe so designates a portion of such  
24 a grant, the State shall, on an annual basis, include

1 in its report under section 411(a) the amount so  
2 designated.”.

3 **SEC. 8108. REPEAL OF FEDERAL LOAN FOR STATE WEL-**  
4 **FARE PROGRAMS.**

5 (a) REPEAL.—Effective as of October 1, 2006, sec-  
6 tion 406 (42 U.S.C. 606) is repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 409(a) (42 U.S.C. 609(a)) is  
9 amended by striking paragraph (6).

10 (2) Section 412 (42 U.S.C. 612) is amended by  
11 striking subsection (f) and redesignating subsections  
12 (g) through (i) as subsections (f) through (h), re-  
13 spectively.

14 (3) Section 1108(a)(2) (42 U.S.C. 1308(a)(2))  
15 is amended by striking “406,”.

16 **SEC. 8109. UNIVERSAL ENGAGEMENT AND FAMILY SELF-**  
17 **SUFFICIENCY PLAN REQUIREMENTS.**

18 (a) MODIFICATION OF STATE PLAN REQUIRE-  
19 MENTS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A))  
20 is amended by striking clauses (ii) and (iii) and inserting  
21 the following:

22 “(ii) Require a parent or caretaker re-  
23 ceiving assistance under the program to  
24 engage in work or alternative self-suffi-

1           ciency activities (as defined by the State),  
2           consistent with section 407(e)(2).

3           “(iii) Require families receiving assist-  
4           ance under the program to engage in ac-  
5           tivities in accordance with family self-suffi-  
6           ciency plans developed pursuant to section  
7           408(b).”.

8           (b) ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY  
9           PLANS.—

10           (1) IN GENERAL.—Section 408(b) (42 U.S.C.  
11           608(b)) is amended to read as follows:

12           “(b) FAMILY SELF-SUFFICIENCY PLANS.—

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

15           “(A) assess, in the manner deemed appro-  
16           priate by the State, the skills, prior work expe-  
17           rience, and employability of each work-eligible  
18           individual (as defined in section 407(b)(2)(C))  
19           receiving assistance under the State program  
20           funded under this part;

21           “(B) establish for each family that in-  
22           cludes such an individual, in consultation as the  
23           State deems appropriate with the individual, a  
24           self-sufficiency plan that specifies appropriate  
25           activities described in the State plan submitted

1           pursuant to section 402, including direct work  
2           activities as appropriate designed to assist the  
3           family in achieving their maximum degree of  
4           self-sufficiency, and that provides for the ongo-  
5           ing participation of the individual in the activi-  
6           ties;

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

10           “(D) monitor the participation of each  
11           such individual in the activities specified in the  
12           self-sufficiency plan, and regularly review the  
13           progress of the family toward self-sufficiency;

14           “(E) upon such a review, revise the self-  
15           sufficiency plan and activities as the State  
16           deems appropriate.

17           “(2) TIMING.—The State shall comply with  
18           paragraph (1) with respect to a family—

19           “(A) in the case of a family that, as of Oc-  
20           tober 1, 2005, is not receiving assistance from  
21           the State program funded under this part, not  
22           later than 60 days after the family first receives  
23           assistance on the basis of the most recent appli-  
24           cation for the assistance; or

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

5           “(3) STATE DISCRETION.—A State shall have  
6           sole discretion, consistent with section 407, to define  
7           and design activities for families for purposes of this  
8           subsection, to develop methods for monitoring and  
9           reviewing progress pursuant to this subsection, and  
10          to make modifications to the plan as the State  
11          deems appropriate to assist the individual in increas-  
12          ing their degree of self-sufficiency.

13          “(4) RULE OF INTERPRETATION.—Nothing in  
14          this part shall preclude a State from—

15                 “(A) requiring participation in work and  
16                 any other activities the State deems appropriate  
17                 for helping families achieve self-sufficiency and  
18                 improving child well-being; or

19                 “(B) using job search or other appropriate  
20                 job readiness or work activities to assess the  
21                 employability of individuals and to determine  
22                 appropriate future engagement activities.”.

23          (2) PENALTY FOR FAILURE TO ESTABLISH  
24          FAMILY SELF-SUFFICIENCY PLAN.—Section  
25          409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

1 (A) in the paragraph heading, by inserting  
2 “OR ESTABLISH FAMILY SELF-SUFFICIENCY  
3 PLAN” after “RATES”; and

4 (B) in subparagraph (A), by inserting “or  
5 408(b)” after “407(a)”.

6 **SEC. 8110. WORK PARTICIPATION REQUIREMENTS.**

7 (a) IN GENERAL.—Section 407 (42 U.S.C. 607) is  
8 amended by striking all that precedes subsection (b)(3)  
9 and inserting the following:

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

11 “(a) PARTICIPATION RATE REQUIREMENTS.—A  
12 State to which a grant is made under section 403 for a  
13 fiscal year shall achieve a minimum participation rate  
14 equal to 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  
23 of subsection (a), the participation rate of a State  
24 for a fiscal year is the average of the participation  
25 rates of the State for each month in the fiscal year.

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

3           “(A) IN GENERAL.—For purposes of para-  
4           graph (1), the participation rate of a State for  
5           a month is—

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

10           “(ii) 160 multiplied by the number of  
11           counted families for the State for the  
12           month.

13           “(B) COUNTED FAMILIES DEFINED.—

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

21           “(ii) STATE OPTION TO EXCLUDE  
22           CERTAIN FAMILIES.—At the option of a  
23           State, the term ‘counted family’ shall not  
24           include—

1           “(I) a family in the first month  
2           for which the family receives assist-  
3           ance from a State program funded  
4           under this part on the basis of the  
5           most recent application for such as-  
6           sistance;

7           “(II) on a case-by-case basis, a  
8           family in which the youngest child has  
9           not attained 12 months of age; or

10           “(III) a family that is subject to  
11           a sanction under this part or part D,  
12           but that has not been subject to such  
13           a sanction for more than 3 months  
14           (whether or not consecutive) in the  
15           preceding 12-month period.

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

1           “(C) WORK-ELIGIBLE INDIVIDUAL DE-  
2           FINED.—In this section, the term ‘work-eligible  
3           individual’ means an individual—

4                   “(i) who is married or a single head  
5                   of household; and

6                   “(ii) whose needs are (or, but for  
7                   sanctions under this part or part D, would  
8                   be) included in determining the amount of  
9                   cash assistance to be provided to the fam-  
10                  ily under the State program funded under  
11                  this part.”.

12           (b) RECALIBRATION OF CASELOAD REDUCTION  
13           CREDIT.—

14                   (1) IN GENERAL.—Section 407(b)(3)(A)(ii) (42  
15                   U.S.C. 607(b)(3)(A)(ii)) is amended to read as fol-  
16                   lows:

17                           “(ii) the average monthly number of  
18                           families that received assistance under the  
19                           State program funded under this part dur-  
20                           ing the base year.”.

21                   (2) CONFORMING AMENDMENT.—Section  
22                   407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended  
23                   by striking “and eligibility criteria” and all that fol-  
24                   lows through the close parenthesis and inserting

1 “and the eligibility criteria in effect during the then  
2 applicable base year”.

3 (3) BASE YEAR DEFINED.—Section 407(b)(3)  
4 (42 U.S.C. 607(b)(3)) is amended by adding at the  
5 end the following:

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

9 “(i) if the fiscal year is fiscal year  
10 2006, fiscal year 1996;

11 “(ii) if the fiscal year is fiscal year  
12 2007, fiscal year 1998;

13 “(iii) if the fiscal year is fiscal year  
14 2008, fiscal year 2001; or

15 “(iv) if the fiscal year is fiscal year  
16 2009 or any succeeding fiscal year, the  
17 then 4th preceding fiscal year.”.

18 (c) SUPERACHIEVER CREDIT.—Section 407(b) (42  
19 U.S.C. 607(b)) is amended by striking paragraphs (4) and  
20 (5) and inserting the following:

21 “(4) SUPERACHIEVER CREDIT.—

22 “(A) IN GENERAL.—The participation  
23 rate, determined under paragraphs (1) and (2)  
24 of this subsection, of a superachiever State for

1 a fiscal year shall be increased by the lesser  
2 of—

3 “(i) the amount (if any) of the super-  
4 achiever credit applicable to the State; or

5 “(ii) the number of percentage points  
6 (if any) by which the minimum participa-  
7 tion rate required by subsection (a) for the  
8 fiscal year exceeds 50 percent.

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

14 “(C) AMOUNT OF CREDIT.—The super-  
15 achiever credit applicable to a State is the num-  
16 ber of percentage points (if any) by which the  
17 decline referred to in subparagraph (B) exceeds  
18 60 percent.

19 “(D) DEFINITIONS.—In this paragraph:

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

1                   “(ii) STATE CASELOAD FOR FISCAL  
2                   YEAR 1995.—The term ‘State caseload for  
3                   fiscal year 1995’ means the average  
4                   monthly number of families that received  
5                   aid under the State plan approved under  
6                   part A (as in effect on September 30,  
7                   1995) during fiscal year 1995.”.

8           (d) COUNTABLE HOURS.—Section 407 (42 U.S.C.  
9 607) is amended by striking subsections (c) and (d) and  
10 inserting the following:

11           “(c) COUNTABLE HOURS.—

12                   “(1) DEFINITION.—In subsection (b)(2), the  
13                   term ‘countable hours’ means, with respect to a fam-  
14                   ily for a month, the total number of hours in the  
15                   month in which any member of the family who is a  
16                   work-eligible individual is engaged in a direct work  
17                   activity or other activities specified by the State (ex-  
18                   cluding an activity that does not address a purpose  
19                   specified in section 401(a)), subject to the other pro-  
20                   visions of this subsection.

21                   “(2) LIMITATIONS.—Subject to such regula-  
22                   tions as the Secretary may prescribe:

23                           “(A) MINIMUM WEEKLY AVERAGE OF 24  
24                   HOURS OF DIRECT WORK ACTIVITIES RE-  
25                   QUIRED.—If the work-eligible individuals in a

1 family are engaged in a direct work activity for  
2 an average total of fewer than 24 hours per  
3 week in a month, then the number of countable  
4 hours with respect to the family for the month  
5 shall be zero.

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

13 “(3) SPECIAL RULES.—For purposes of para-  
14 graph (1):

15 “(A) PARTICIPATION IN QUALIFIED AC-  
16 TIVITIES.—

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

1           “(ii) QUALIFIED ACTIVITY DE-  
2           FINED.—The term ‘qualified activity’  
3           means an activity specified by the State  
4           (subject to the exclusion described in para-  
5           graph (1)) that meets such standards and  
6           criteria as the State may specify, includ-  
7           ing—

8                   “(I) substance abuse counseling  
9                   or treatment;

10                   “(II) rehabilitation treatment  
11                   and services;

12                   “(III) work-related education or  
13                   training directed at enabling the fam-  
14                   ily member to work;

15                   “(IV) job search or job readiness  
16                   assistance; and

17                   “(V) any other activity that ad-  
18                   dresses a purpose specified in section  
19                   401(a).

20           “(iii) LIMITATION.—

21                   “(I) IN GENERAL.—Except as  
22                   provided in subclause (II), clause (i)  
23                   shall not apply to a family for more  
24                   than 3 months in any period of 24  
25                   consecutive months.

1                   “(II) SPECIAL RULE APPLICABLE  
2                   TO EDUCATION AND TRAINING.—A  
3                   State may, on a case-by-case basis,  
4                   apply clause (i) to a work-eligible indi-  
5                   vidual so that participation by the in-  
6                   dividual in education or training, if  
7                   needed to permit the individual to  
8                   complete a certificate program or  
9                   other work-related education or train-  
10                  ing directed at enabling the individual  
11                  to fill a known job need in a local  
12                  area, may be considered countable  
13                  hours with respect to the family of the  
14                  individual for not more than 4 months  
15                  in any period of 24 consecutive  
16                  months.

17                  “(B) SCHOOL ATTENDANCE BY TEEN  
18                  HEAD OF HOUSEHOLD.—The work-eligible  
19                  members of a family shall be considered to be  
20                  engaged in a direct work activity for an average  
21                  of 40 hours per week in a month if the family  
22                  includes an individual who is married, or is a  
23                  single head of household, who has not attained  
24                  20 years of age, and the individual—

1           “(i) maintains satisfactory attendance  
2           at secondary school or the equivalent in  
3           the month; or

4           “(ii) participates in education directly  
5           related to employment for an average of at  
6           least 20 hours per week in the month.

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

9           “(1) unsubsidized employment;

10          “(2) subsidized private sector employment;

11          “(3) subsidized public sector employment;

12          “(4) on-the-job training;

13          “(5) supervised work experience; or

14          “(6) supervised community service.”.

15          (e) PENALTIES AGAINST INDIVIDUALS.—Section  
16 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as  
17 follows:

18          “(1) REDUCTION OR TERMINATION OF ASSIST-  
19 ANCE.—

20                 “(A) IN GENERAL.—Except as provided in  
21 paragraph (2), if an individual in a family re-  
22 ceiving assistance under a State program fund-  
23 ed under this part fails to engage in activities  
24 required in accordance with this section, or  
25 other activities required by the State under the

1 program, and the family does not otherwise en-  
2 gage in activities in accordance with the self-  
3 sufficiency plan established for the family pur-  
4 suant to section 408(b), the State shall—

5 “(i) if the failure is partial or persists  
6 for not more than 1 month—

7 “(I) reduce the amount of assist-  
8 ance otherwise payable to the family  
9 pro rata (or more, at the option of the  
10 State) with respect to any period dur-  
11 ing a month in which the failure oc-  
12 curs; or

13 “(II) terminate all assistance to  
14 the family, subject to such good cause  
15 exceptions as the State may establish;  
16 or

17 “(ii) if the failure is total and persists  
18 for at least 2 consecutive months, termi-  
19 nate all cash payments to the family in-  
20 cluding qualified State expenditures (as de-  
21 fined in section 409(a)(7)(B)(i)) for at  
22 least 1 month and thereafter until the  
23 State determines that the individual has  
24 resumed full participation in the activities,

1 subject to such good cause exceptions as  
2 the State may establish.

3 “(B) SPECIAL RULE.—

4 “(i) IN GENERAL.—In the event of a  
5 conflict between a requirement of clause  
6 (i)(II) or (ii) of subparagraph (A) and a  
7 requirement of a State constitution, or of  
8 a State statute that, before 1966, obligated  
9 local government to provide assistance to  
10 needy parents and children, the State con-  
11 stitutional or statutory requirement shall  
12 control.

13 “(ii) LIMITATION.—Clause (i) of this  
14 subparagraph shall not apply after the 1-  
15 year period that begins with the date of  
16 the enactment of this subparagraph.”.

17 (f) CONFORMING AMENDMENTS.—

18 (1) Section 407(f) (42 U.S.C. 607(f)) is amend-  
19 ed in each of paragraphs (1) and (2) by striking  
20 “work activity described in subsection (d)” and in-  
21 serting “direct work activity”.

22 (2) The heading of section 409(a)(14) (42  
23 U.S.C. 609(a)(14)) is amended by inserting “OR RE-  
24 FUSING TO ENGAGE IN ACTIVITIES UNDER A FAMILY  
25 SELF-SUFFICIENCY PLAN” after “WORK”.

1 **SEC. 8111. MAINTENANCE OF EFFORT.**

2 (a) IN GENERAL.—Section 409(a)(7) (42 U.S.C.  
3 609(a)(7)) is amended—

4 (1) in subparagraph (A), by striking “fiscal  
5 year 1998, 1999, 2000, 2001, 2002, 2003, 2004,  
6 2005, 2006, or 2007” and inserting “fiscal year  
7 2006, 2007, 2008, 2009, 2010, or 2011”; and

8 (2) in subparagraph (B)(ii)—

9 (A) by inserting “preceding” before “fiscal  
10 year”; and

11 (B) by striking “for fiscal years 1997  
12 through 2006.”.

13 (b) STATE SPENDING ON PROMOTING HEALTHY  
14 MARRIAGE.—

15 (1) IN GENERAL.—Section 404 (42 U.S.C. 604)  
16 is amended by adding at the end the following:

17 “(1) MARRIAGE PROMOTION.—A State, territory, or  
18 tribal organization to which a grant is made under section  
19 403(a)(2) may use a grant made to the State, territory,  
20 or tribe under any other provision of section 403 for mar-  
21 riage promotion activities, and the amount of any such  
22 grant so used shall be considered State funds for purposes  
23 of section 403(a)(2).”.

24 (2) FEDERAL TANF FUNDS USED FOR MAR-  
25 RIAGE PROMOTION DISREGARDED FOR PURPOSES OF  
26 MAINTENANCE OF EFFORT REQUIREMENT.—Section

1 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)), as  
2 amended by section 8103(e) of this Act, is amended  
3 by adding at the end the following:

4 “(VI) EXCLUSION OF FEDERAL  
5 TANF FUNDS USED FOR MARRIAGE  
6 PROMOTION ACTIVITIES.—Such term  
7 does not include the amount of any  
8 grant made to the State under section  
9 403 that is expended for a marriage  
10 promotion activity.”.

11 **SEC. 8112. PERFORMANCE IMPROVEMENT.**

12 (a) STATE PLANS.—Section 402(a) (42 U.S.C.  
13 602(a)) is amended—

14 (1) in paragraph (1)—

15 (A) in subparagraph (A)—

16 (i) by redesignating clause (vi) and  
17 clause (vii) (as added by section 8103(a) of  
18 this Act) as clauses (vii) and (viii), respec-  
19 tively; and

20 (ii) by striking clause (v) and insert-  
21 ing the following:

22 “(v) The document shall—

23 “(I) describe how the State will  
24 pursue ending dependence of needy  
25 families on government benefits and

1 reducing poverty by promoting job  
2 preparation and work;

3 “(II) describe how the State will  
4 encourage the formation and mainte-  
5 nance of healthy 2-parent married  
6 families, encourage responsible father-  
7 hood, and prevent and reduce the inci-  
8 dence of out-of-wedlock pregnancies;

9 “(III) include specific, numerical,  
10 and measurable performance objec-  
11 tives for accomplishing subclauses (I)  
12 and (II); and

13 “(IV) describe the methodology  
14 that the State will use to measure  
15 State performance in relation to each  
16 such objective.

17 “(vi) Describe any strategies and pro-  
18 grams the State may be undertaking to ad-  
19 dress—

20 “(I) employment retention and  
21 advancement for recipients of assist-  
22 ance under the program, including  
23 placement into high-demand jobs, and  
24 whether the jobs are identified using  
25 labor market information;

1 “(II) efforts to reduce teen preg-  
2 nancy;

3 “(III) services for struggling and  
4 noncompliant families, and for clients  
5 with special problems; and

6 “(IV) program integration, in-  
7 cluding the extent to which employ-  
8 ment and training services under the  
9 program are provided through the  
10 One-Stop delivery system created  
11 under the Workforce Investment Act  
12 of 1998, and the extent to which  
13 former recipients of such assistance  
14 have access to additional core, inten-  
15 sive, or training services funded  
16 through such Act.”; and

17 (B) in subparagraph (B), by striking  
18 clause (iii) (as so redesignated by section  
19 8107(b)(1) of this Act) and inserting the fol-  
20 lowing:

21 “(iii) The document shall describe  
22 strategies and programs the State is un-  
23 dertaking to engage religious organizations  
24 in the provision of services funded under  
25 this part and efforts related to section 104

1 of the Personal Responsibility and Work  
2 Opportunity Reconciliation Act of 1996.

3 “(iv) The document shall describe  
4 strategies to improve program manage-  
5 ment and performance.”; and

6 (2) in paragraph (4), by inserting “and tribal”  
7 after “that local”.

8 (b) CONSULTATION WITH STATE REGARDING PLAN  
9 AND DESIGN OF TRIBAL PROGRAMS.—Section 412(b)(1)  
10 (42 U.S.C. 612(b)(1)) is amended—

11 (1) by striking “and” at the end of subpara-  
12 graph (E);

13 (2) by striking the period at the end of sub-  
14 paragraph (F) and inserting “; and”; and

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

16 “(G) provides an assurance that the State  
17 in which the tribe is located has been consulted  
18 regarding the plan and its design.”.

19 (c) PERFORMANCE MEASURES.—Section 413 (42  
20 U.S.C. 613) is amended by adding at the end the fol-  
21 lowing:

22 “(k) PERFORMANCE IMPROVEMENT.—The Secretary,  
23 in consultation with the States, shall develop uniform per-  
24 formance measures designed to assess the degree of effec-  
25 tiveness, and the degree of improvement, of State pro-

1 grams funded under this part in accomplishing the pur-  
2 poses of this part.”.

3 (d) ANNUAL RANKING OF STATES.—Section  
4 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking  
5 “long-term private sector jobs” and inserting “private sec-  
6 tor jobs, the success of the recipients in retaining employ-  
7 ment, the ability of the recipients to increase their wages”.

8 **SEC. 8113. DATA COLLECTION AND REPORTING.**

9 (a) CONTENTS OF REPORT.—Section 411(a)(1)(A)  
10 (42 U.S.C. 611(a)(1)(A)) is amended—

11 (1) in the matter preceding clause (i), by insert-  
12 ing “and on families receiving assistance under  
13 State programs funded with other qualified State ex-  
14 penditures (as defined in section 409(a)(7)(B))” be-  
15 fore the colon;

16 (2) in clause (vii), by inserting “and minor par-  
17 ent” after “of each adult”;

18 (3) in clause (viii), by striking “and educational  
19 level”;

20 (4) in clause (ix), by striking “, and if the lat-  
21 ter 2, the amount received”;

22 (5) in clause (x)—

23 (A) by striking “each type of”; and

1 (B) by inserting before the period “and, if  
2 applicable, the reason for receipt of the assist-  
3 ance for a total of more than 60 months”;

4 (6) in clause (xi), by striking the subclauses  
5 and inserting the following:

6 “(I) Subsidized private sector  
7 employment.

8 “(II) Unsubsidized employment.

9 “(III) Public sector employment,  
10 supervised work experience, or super-  
11 vised community service.

12 “(IV) On-the-job training.

13 “(V) Job search and placement.

14 “(VI) Training.

15 “(VII) Education.

16 “(VIII) Other activities directed  
17 at the purposes of this part, as speci-  
18 fied in the State plan submitted pur-  
19 suant to section 402.”;

20 (7) in clause (xii), by inserting “and progress  
21 toward universal engagement” after “participation  
22 rates”;

23 (8) in clause (xiii), by striking “type and”;

1 (9) in clause (xvi), by striking subclause (II)  
2 and redesignating subclauses (III) through (V) as  
3 subclauses (II) through (IV), respectively; and

4 (10) by adding at the end the following:

5 “(xviii) The date the family first re-  
6 ceived assistance from the State program  
7 on the basis of the most recent application  
8 for such assistance.

9 “(xix) Whether a self-sufficiency plan  
10 is established for the family in accordance  
11 with section 408(b).

12 “(xx) With respect to any child in the  
13 family, the marital status of the parents at  
14 the birth of the child, and if the parents  
15 were not then married, whether the pater-  
16 nity of the child has been established.”

17 (b) USE OF SAMPLES.—Section 411(a)(1)(B) (42  
18 U.S.C. 611(a)(1)(B)) is amended—

19 (1) in clause (i)—

20 (A) by striking “a sample” and inserting  
21 “samples”; and

22 (B) by inserting before the period “, except  
23 that the Secretary may designate core data ele-  
24 ments that must be reported on all families”;

25 and

1           (2) in clause (ii), by striking “funded under this  
2           part” and inserting “described in subparagraph  
3           (A)”.

4           (c) REPORT ON FAMILIES THAT BECOME INELI-  
5           GIBLE TO RECEIVE ASSISTANCE.—Section 411(a) (42  
6           U.S.C. 611(a)) is amended—

7           (1) by striking paragraph (5);

8           (2) by redesignating paragraph (6) as para-  
9           graph (5); and

10          (3) by inserting after paragraph (5) (as so re-  
11          designated) the following:

12               “(6) REPORT ON FAMILIES THAT BECOME IN-  
13               ELIGIBLE TO RECEIVE ASSISTANCE.—The report re-  
14               quired by paragraph (1) for a fiscal quarter shall in-  
15               clude for each month in the quarter the number of  
16               families and total number of individuals that, during  
17               the month, became ineligible to receive assistance  
18               under the State program funded under this part  
19               (broken down by the number of families that become  
20               so ineligible due to earnings, changes in family com-  
21               position that result in increased earnings, sanctions,  
22               time limits, or other specified reasons).”.

23          (d) REGULATIONS.—Section 411(a)(7) (42 U.S.C.  
24          611(a)(7)) is amended—

1           (1) by inserting “and to collect the necessary  
2 data” before “with respect to which reports”;

3           (2) by striking “subsection” and inserting “sec-  
4 tion”; and

5           (3) by striking “in defining the data elements”  
6 and all that follows and inserting “, the National  
7 Governors’ Association, the American Public Human  
8 Services Association, the National Conference of  
9 State Legislatures, and others in defining the data  
10 elements.”.

11       (e) ADDITIONAL REPORTS BY STATES.—Section 411  
12 (42 U.S.C. 611) is amended—

13           (1) by redesignating subsection (b) as sub-  
14 section (e); and

15           (2) by inserting after subsection (a) the fol-  
16 lowing:

17       “(b) ANNUAL REPORTS ON PROGRAM CHARACTERIS-  
18 TICS.—Not later than 90 days after the end of fiscal year  
19 2006 and each succeeding fiscal year, each eligible State  
20 shall submit to the Secretary a report on the characteris-  
21 ties of the State program funded under this part and other  
22 State programs funded with qualified State expenditures  
23 (as defined in section 409(a)(7)(B)(i)). The report shall  
24 include, with respect to each such program, the program  
25 name, a description of program activities, the program

1 purpose, the program eligibility criteria, the sources of  
2 program funding, the number of program beneficiaries,  
3 sanction policies, and any program work requirements.

4 “(c) MONTHLY REPORTS ON CASELOAD.—Not later  
5 than 3 months after the end of a calendar month that  
6 begins 1 year or more after the enactment of this sub-  
7 section, each eligible State shall submit to the Secretary  
8 a report on the number of families and total number of  
9 individuals receiving assistance in the calendar month  
10 under the State program funded under this part.

11 “(d) ANNUAL REPORT ON PERFORMANCE IMPROVE-  
12 MENT.—Beginning with fiscal year 2007, not later than  
13 January 1 of each fiscal year, each eligible State shall sub-  
14 mit to the Secretary a report on achievement and improve-  
15 ment during the preceding fiscal year under the numerical  
16 performance goals and measures under the State program  
17 funded under this part with respect to each of the matters  
18 described in section 402(a)(1)(A)(v).”.

19 (f) ANNUAL REPORTS TO CONGRESS BY THE SEC-  
20 RETARY.—Section 411(e), as so redesignated by sub-  
21 section (e) of this section, is amended—

22 (1) in the matter preceding paragraph (1), by  
23 striking “and each fiscal year thereafter” and insert-  
24 ing “and by July 1 of each fiscal year thereafter”;

1           (2) in paragraph (2), by striking “families ap-  
2           plying for assistance,” and by striking the last  
3           comma; and

4           (3) in paragraph (3), by inserting “and other  
5           programs funded with qualified State expenditures  
6           (as defined in section 409(a)(7)(B)(i))” before the  
7           semicolon.

8           (g) INCREASED ANALYSIS OF STATE SINGLE AUDIT  
9           REPORTS.—Section 411 (42 U.S.C. 611) is amended by  
10          adding at the end the following:

11          “(f) INCREASED ANALYSIS OF STATE SINGLE AUDIT  
12          REPORTS.—

13                 “(1) IN GENERAL.—Within 3 months after a  
14          State submits to the Secretary a report pursuant to  
15          section 7502(a)(1)(A) of title 31, United States  
16          Code, the Secretary shall analyze the report for the  
17          purpose of identifying the extent and nature of prob-  
18          lems related to the oversight by the State of non-  
19          governmental entities with respect to contracts en-  
20          tered into by such entities with the State program  
21          funded under this part, and determining what addi-  
22          tional actions may be appropriate to help prevent  
23          and correct the problems.

24                 “(2) INCLUSION OF PROGRAM OVERSIGHT SEC-  
25          TION IN ANNUAL REPORT TO THE CONGRESS.—The

1 Secretary shall include in each report under sub-  
2 section (e) a section on oversight of State programs  
3 funded under this part, including findings on the ex-  
4 tent and nature of the problems referred to in para-  
5 graph (1), actions taken to resolve the problems, and  
6 to the extent the Secretary deems appropriate make  
7 recommendations on changes needed to resolve the  
8 problems.”.

9 **SEC. 8114. DIRECT FUNDING AND ADMINISTRATION BY IN-**  
10 **DIAN TRIBES.**

11 (a) TRIBAL FAMILY ASSISTANCE GRANT.—Section  
12 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by  
13 striking “1997, 1998, 1999, 2000, 2001, 2002, and 2003”  
14 and inserting “2006 through 2010”.

15 (b) GRANTS FOR INDIAN TRIBES THAT RECEIVED  
16 JOBS FUNDS.—Section 412(a)(2)(A) (42 U.S.C.  
17 612(a)(2)(A)) is amended by striking “1997, 1998, 1999,  
18 2000, 2001, 2002, and 2003” and inserting “2006  
19 through 2010”.

20 **SEC. 8115. RESEARCH, EVALUATIONS, AND NATIONAL**  
21 **STUDIES.**

22 (a) SECRETARY’S FUND FOR RESEARCH, DEM-  
23 ONSTRATIONS, AND TECHNICAL ASSISTANCE.—Section  
24 413 (42 U.S.C. 613), as amended by section 8112(c) of

1 this Act, is further amended by adding at the end the fol-  
2 lowing:

3 “(I) FUNDING FOR RESEARCH, DEMONSTRATIONS,  
4 AND TECHNICAL ASSISTANCE.—

5 “(1) APPROPRIATION.—Out of any money in  
6 the Treasury of the United States not otherwise ap-  
7 propriated, there are appropriated \$102,000,000 for  
8 each of fiscal years 2006 through 2010, which shall  
9 be available to the Secretary for the purpose of con-  
10 ducting and supporting research and demonstration  
11 projects by public or private entities, and providing  
12 technical assistance to States, Indian tribal organi-  
13 zations, and such other entities as the Secretary  
14 may specify that are receiving a grant under this  
15 part, which shall be expended primarily on activities  
16 described in section 403(a)(2)(B), and which shall  
17 be in addition to any other funds made available  
18 under this part. The Secretary may not provide an  
19 entity with funds made available under this para-  
20 graph unless the entity agrees that, as a condition  
21 of receipt of the funds for a program or activity de-  
22 scribed in any of clauses (iii) through (viii) of sec-  
23 tion 403(a)(2)(B), the entity will comply with sub-  
24 clauses (I) and (II) of section 403(a)(2)(C)(ii).

1           “(2) SET ASIDE FOR DEMONSTRATION  
2 PROJECTS FOR COORDINATION OF PROVISION OF  
3 CHILD WELFARE AND TANF SERVICES TO TRIBAL  
4 FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

5           “(A) IN GENERAL.—Of the amounts made  
6 available under paragraph (1) for a fiscal year,  
7 \$2,000,000 shall be awarded on a competitive  
8 basis to fund demonstration projects designed  
9 to test the effectiveness of tribal governments  
10 or tribal consortia in coordinating the provision  
11 to tribal families at risk of child abuse or ne-  
12 glect of child welfare services and services  
13 under tribal programs funded under this part.

14           “(B) USE OF FUNDS.—A grant made to  
15 such a project shall be used—

16           “(i) to improve case management for  
17 families eligible for assistance from such a  
18 tribal program;

19           “(ii) for supportive services and as-  
20 sistance to tribal children in out-of-home  
21 placements and the tribal families caring  
22 for such children, including families who  
23 adopt 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 re-  
5                   quire a recipient of funds awarded under this  
6                   paragraph to provide the Secretary with such  
7                   information as the Secretary deems relevant to  
8                   enable the Secretary to facilitate and oversee  
9                   the administration of any project for which  
10                  funds are provided 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  
13                  the 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  
17                  than March 31, 2006, the Secretary of Health and Human  
18                  Services, in consultation with the Attorney General, shall  
19                  submit to the Congress a report on the enforcement of  
20                  affidavits of support and sponsor deeming as required by  
21                  section 421, 422, and 432 of the Personal Responsibility  
22                  and Work Opportunity 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  
25                  Secretary of Health and Human Services and the Sec-

1 retary of Labor shall jointly submit a report to the Con-  
2 gress describing common or conflicting data elements,  
3 definitions, performance measures, and reporting require-  
4 ments in the Workforce Investment Act of 1998 and part  
5 A of title IV of the Social Security Act, and, to the degree  
6 each Secretary deems appropriate, at the discretion of ei-  
7 ther Secretary, any other program administered by the re-  
8 spective Secretary, to allow greater coordination between  
9 the welfare and workforce development systems.

10 **SEC. 8116. STUDY BY THE CENSUS BUREAU.**

11 (a) IN GENERAL.—Section 414(a) (42 U.S.C.  
12 614(a)) 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  
18 on the economic and child well-being of low-income fami-  
19 lies with children, including those who received assistance  
20 or services from a State program funded under this part,  
21 and, to the extent possible, shall provide State representa-  
22 tive samples. The content of the survey should include  
23 such information as may be necessary to examine the  
24 issues of out-of-wedlock childbearing, marriage, welfare  
25 dependency and compliance with work requirements, the

1 beginning and ending of spells of assistance, work, earn-  
2 ings and employment stability, and the well-being of chil-  
3 dren.”.

4 (b) APPROPRIATION.—Section 414(b) (42 U.S.C.  
5 614(b)) is amended—

6 (1) by striking “1996,” and all that follows  
7 through “2003” and inserting “2006 through  
8 2010”; and

9 (2) by adding at the end the following: “Funds  
10 appropriated under this subsection shall remain  
11 available through fiscal year 2010 to carry out sub-  
12 section (a).”.

13 **SEC. 8117. DEFINITION OF ASSISTANCE.**

14 (a) IN GENERAL.—Section 419 (42 U.S.C. 619) is  
15 amended by adding at the end the following:

16 “(6) ASSISTANCE.—

17 “(A) IN GENERAL.—The term ‘assistance’  
18 means payment, by cash, voucher, or other  
19 means, to or for an individual or family for the  
20 purpose of meeting a subsistence need of the in-  
21 dividual or family (including food, clothing,  
22 shelter, and related items, but not including  
23 costs of transportation or child care).

24 “(B) EXCEPTION.—The term ‘assistance’  
25 does not include a payment described in sub-

1 paragraph (A) to or for an individual or family  
2 on a short-term, nonrecurring basis (as defined  
3 by the State in accordance with regulations pre-  
4 scribed by the Secretary).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 404(a)(1) (42 U.S.C. 604(a)(1)) is  
7 amended by striking “assistance” and inserting  
8 “aid”.

9 (2) Section 404(f) (42 U.S.C. 604(f)) is amend-  
10 ed by striking “assistance” and inserting “benefits  
11 or services”.

12 (3) Section 408(a)(5)(B)(i) (42 U.S.C.  
13 608(a)(5)(B)(i)) is amended in the heading by strik-  
14 ing “ASSISTANCE” and inserting “AID”.

15 (4) Section 413(d)(2) (42 U.S.C. 613(d)(2)) is  
16 amended by striking “assistance” and inserting  
17 “aid”.

18 **SEC. 8118. TECHNICAL CORRECTIONS.**

19 (a) Section 409(c)(2) (42 U.S.C. 609(c)(2)) is  
20 amended by inserting a comma after “appropriate”.

21 (b) Section 411(a)(1)(A)(ii)(III) (42 U.S.C.  
22 611(a)(1)(A)(ii)(III)) is amended by striking the last close  
23 parenthesis.

24 (c) Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is  
25 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 sec-  
4 tions 8112(c) and 8115(a) of this Act, respectively) as  
5 subsections (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)  
3 is 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  
7 substantial evidence strongly indicating the urgent need  
8 to promote and support involved, committed, and respon-  
9 sible fatherhood, and to encourage and support healthy  
10 marriages between parents raising children, including data  
11 demonstrating 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 dur-  
22 ing infancy and early childhood contributes to the  
23 development of emotional security, curiosity, and  
24 math 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, men-  
13 toring, and parenting education, dissemination  
14 of educational materials and information on  
15 parenting skills, encouragement of positive fa-  
16 ther involvement, including the positive involve-  
17 ment of nonresident fathers, and other meth-  
18 ods.

19           ‘(B) Enhancing the abilities and commit-  
20 ment of unemployed or low-income fathers to  
21 provide material support for their families and  
22 to avoid or leave welfare programs by assisting  
23 them to take full advantage of education, job  
24 training, and job search programs, to improve  
25 work habits and work skills, to secure career

1 advancement by activities such as outreach and  
2 information dissemination, coordination, as ap-  
3 propriate, with employment services and job  
4 training programs, including the One-Stop de-  
5 livery system established under title I of the  
6 Workforce Investment Act of 1998, encourage-  
7 ment and support of timely payment of current  
8 child support and regular payment toward past  
9 due child support obligations in appropriate  
10 cases, and other methods.

11 ‘(C) Improving fathers’ ability to effec-  
12 tively manage family business affairs by means  
13 such as education, counseling, and mentoring in  
14 matters including household management,  
15 budgeting, banking, and handling of financial  
16 transactions, time management, and home  
17 maintenance.

18 ‘(D) Encouraging and supporting healthy  
19 marriages and married fatherhood through such  
20 activities as premarital education, including the  
21 use of premarital inventories, marriage prepara-  
22 tion programs, skills-based marriage education  
23 programs, marital therapy, couples counseling,  
24 divorce education and reduction programs, di-  
25 vorce mediation and counseling, relationship

1 skills enhancement programs, including those  
2 designed to reduce child abuse and domestic vi-  
3 olence, and dissemination of information about  
4 the benefits of marriage for both parents and  
5 children.

6 ‘(2) Through the projects and activities de-  
7 scribed in paragraph (1), to improve outcomes for  
8 children with respect to measures such as increased  
9 family income and economic security, improved  
10 school performance, better health, improved emo-  
11 tional and behavioral stability and social adjustment,  
12 and reduced risk of delinquency, crime, substance  
13 abuse, child abuse and neglect, teen sexual activity,  
14 and teen suicide.

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

20 **‘SEC. 442. DEFINITIONS.**

21 ‘In this part, the terms “Indian tribe” and “tribal  
22 organization” have the meanings given them in sub-  
23 sections (e) and (l), respectively, of section 4 of the Indian  
24 Self-Determination and Education Assistance Act.

1 **SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.**

2       ‘(a) IN GENERAL.—The Secretary may make grants  
3 for fiscal years 2006 through 2010 to public and nonprofit  
4 community entities, including religious organizations, and  
5 to Indian tribes and tribal organizations, for demonstra-  
6 tion service projects and activities designed to test the ef-  
7 fectiveness of various approaches to accomplish the objec-  
8 tives specified in section 441(b)(1).

9       ‘(b) ELIGIBILITY CRITERIA FOR FULL SERVICE  
10 GRANTS.—In order to be eligible for a grant under this  
11 section, except as specified in subsection (c), an entity  
12 shall submit an application to the Secretary containing the  
13 following:

14               ‘(1) PROJECT DESCRIPTION.—A statement in-  
15 cluding—

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

22                       ‘(B) a description of the methods to be  
23 used by the entity or its contractor to assess  
24 the extent to which the project was successful  
25 in accomplishing its specific objectives and the  
26 general objectives specified in section 441(b)(1).

1           ‘(2) EXPERIENCE AND QUALIFICATIONS.—A  
2 demonstration of ability to carry out the project, by  
3 means such as demonstration of experience in suc-  
4 cessfully carrying out projects of similar design and  
5 scope, and such other information as the Secretary  
6 may find necessary to demonstrate the entity’s ca-  
7 pacity to carry out the project, including the entity’s  
8 ability to provide the non-Federal share of project  
9 resources.

10           ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT  
11 AND DOMESTIC VIOLENCE.—A description of how  
12 the entity will assess for the presence of, and inter-  
13 vene to resolve, domestic violence and child abuse  
14 and neglect, including how the entity will coordinate  
15 with State and local child protective service and do-  
16 mestic violence programs.

17           ‘(4) ADDRESSING CONCERNS RELATING TO  
18 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-  
19 mitment to make available to each individual partici-  
20 pating in the project education about alcohol, to-  
21 bacco, and other drugs, and about the health risks  
22 associated with abusing such substances, and infor-  
23 mation about diseases and conditions transmitted  
24 through substance abuse and sexual contact, includ-

1 ing HIV/AIDS, and to coordinate with providers of  
2 services addressing such problems, as appropriate.

3 ‘(5) COORDINATION WITH SPECIFIED PRO-  
4 GRAMS.—An undertaking to coordinate, as appro-  
5 priate, with State and local entities responsible for  
6 the programs under parts A, B, and D of this title,  
7 including programs under title I of the Workforce  
8 Investment Act of 1998 (including the One-Stop de-  
9 livery system), and such other programs as the Sec-  
10 retary may require.

11 ‘(6) RECORDS, REPORTS, AND AUDITS.—An  
12 agreement to maintain such records, make such re-  
13 ports, and cooperate with such reviews or audits as  
14 the Secretary may find necessary for purposes of  
15 oversight of project activities and expenditures.

16 ‘(7) SELF-INITIATED EVALUATION.—If the enti-  
17 ty elects to contract for independent evaluation of  
18 the project (part or all of the cost of which may be  
19 paid for using grant funds), a commitment to sub-  
20 mit to the Secretary a copy of the evaluation report  
21 within 30 days after completion of the report and  
22 not more than 1 year after completion of the project.

23 ‘(8) COOPERATION WITH SECRETARY’S OVER-  
24 SIGHT AND EVALUATION.—An agreement to cooper-  
25 ate with the Secretary’s evaluation of projects as-

1       sisted under this section, by means including ran-  
2       dom assignment of clients to service recipient and  
3       control groups, if determined by the Secretary to be  
4       appropriate, and affording the Secretary access to  
5       the project and to project-related records and docu-  
6       ments, staff, and clients.

7       ‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE  
8 GRANTS.—In order to be eligible for a grant under this  
9 section in an amount under \$25,000 per fiscal year, an  
10 entity shall submit an application to the Secretary con-  
11 taining the following:

12           ‘(1) PROJECT DESCRIPTION.—A description of  
13       the project and how it will be carried out, including  
14       the number and characteristics of clients to be  
15       served, the proposed duration of the project, and  
16       how it will address at least 1 of the 4 objectives  
17       specified in section 441(b)(1).

18           ‘(2) QUALIFICATIONS.—Such information as  
19       the Secretary may require as to the capacity of the  
20       entity to carry out the project, including any pre-  
21       vious experience with similar activities.

22           ‘(3) COORDINATION WITH RELATED PRO-  
23 GRAMS.—As required by the Secretary in appro-  
24 priate cases, an undertaking to coordinate and co-  
25 operate with State and local entities responsible for

1 specific programs relating to the objectives of the  
2 project including, as appropriate, jobs programs and  
3 programs serving children and families.

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

9 ‘(5) COOPERATION WITH SECRETARY’S OVER-  
10 SIGHT AND EVALUATION.—An agreement to cooper-  
11 ate with the Secretary’s evaluation of projects as-  
12 sisted under this section, by means including afford-  
13 ing the Secretary access to the project and to  
14 project-related records and documents, staff, and cli-  
15 ents.

16 ‘(d) CONSIDERATIONS IN AWARDING GRANTS.—

17 ‘(1) DIVERSITY OF PROJECTS.—In awarding  
18 grants under this section, the Secretary shall seek to  
19 achieve a balance among entities of differing sizes,  
20 entities in differing geographic areas, entities in  
21 urban and in rural areas, and entities employing dif-  
22 fering methods of achieving the purposes of this sec-  
23 tion, including working with the State agency re-  
24 sponsible for the administration of part D to help fa-  
25 thers satisfy child support arrearage obligations.

1           ‘(2) PREFERENCE FOR PROJECTS SERVING  
2           LOW-INCOME FATHERS.—In awarding grants under  
3           this section, the Secretary may give preference to  
4           applications for projects in which a majority of the  
5           clients to be served are low-income fathers.

6           ‘(e) FEDERAL SHARE.—

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

11                   ‘(A) up to 80 percent (or up to 90 percent,  
12                   if the entity demonstrates to the Secretary’s  
13                   satisfaction circumstances limiting the entity’s  
14                   ability to secure non-Federal resources) in the  
15                   case of a project under subsection (b); and

16                   ‘(B) up to 100 percent, in the case of a  
17                   project under subsection (c).

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

1 **SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**  
2 **PROJECTS.**

3 (a) **IN GENERAL.**—The Secretary may make grants  
4 under this section for fiscal years 2006 through 2010 to  
5 eligible entities (as specified in subsection (b)) for 2  
6 multicity, multistate projects demonstrating approaches to  
7 achieving the objectives specified in section 441(b)(1). One  
8 of the projects shall test the use of married couples to  
9 deliver program services.

10 (b) **ELIGIBLE ENTITIES.**—An entity eligible for a  
11 grant under this section must be a national nonprofit fa-  
12 therhood promotion organization that meets the following  
13 requirements:

14 (1) **EXPERIENCE WITH FATHERHOOD PRO-**  
15 **GRAMS.**—The organization must have substantial ex-  
16 perience in designing and successfully conducting  
17 programs that meet the purposes described in sec-  
18 tion 441.

19 (2) **EXPERIENCE WITH MULTICITY,**  
20 **MULTISTATE PROGRAMS AND GOVERNMENT COORDI-**  
21 **NATION.**—The organization must have experience in  
22 simultaneously conducting such programs in more  
23 than 1 major metropolitan area in more than 1  
24 State and in coordinating such programs, where ap-  
25 propriate, with State and local government agencies  
26 and private, nonprofit agencies (including commu-

1 nity-based and religious organizations), including  
2 State or local agencies responsible for child support  
3 enforcement and workforce development.

4 ‘(c) APPLICATION REQUIREMENTS.—In order to be  
5 eligible for a grant under this section, an entity must sub-  
6 mit to the Secretary an application that includes the fol-  
7 lowing:

8 ‘(1) QUALIFICATIONS.—

9 ‘(A) ELIGIBLE ENTITY.—A demonstration  
10 that the entity meets the requirements of sub-  
11 section (b).

12 ‘(B) OTHER.—Such other information as  
13 the Secretary may find necessary to dem-  
14 onstrate the entity’s capacity to carry out the  
15 project, including the entity’s ability to provide  
16 the non-Federal share of project resources.

17 ‘(2) PROJECT DESCRIPTION.—A description of  
18 and commitments concerning the project design, in-  
19 cluding the following:

20 ‘(A) IN GENERAL.—A detailed description  
21 of the proposed project design and how it will  
22 be carried out, which shall—

23 ‘(i) provide for the project to be con-  
24 ducted in at least 3 major metropolitan  
25 areas;

1           ‘(ii) state how it will address each of  
2           the 4 objectives specified in section  
3           441(b)(1);

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

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

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

19          ‘(i) in consultation with the evaluator  
20          selected pursuant to section 445, and as  
21          required by the Secretary, will modify the  
22          project design, initially and (if necessary)  
23          subsequently throughout the duration of  
24          the project, in order to facilitate ongoing  
25          and final oversight and evaluation of

1 project operation and outcomes (by means  
2 including, to the maximum extent feasible,  
3 random assignment of clients to service re-  
4 cipient and control groups), and to provide  
5 for mid-course adjustments in project de-  
6 sign indicated by interim evaluations;

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

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

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

23 ‘(4) ADDRESSING CONCERNS RELATING TO  
24 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-  
25 mitment to make available to each individual partici-

1       pating in the project education about alcohol, to-  
2       bacco, and other drugs, and about the health risks  
3       associated with abusing such substances, and infor-  
4       mation about diseases and conditions transmitted  
5       through substance abuse and sexual contact, includ-  
6       ing HIV/AIDS, and to coordinate with providers of  
7       services addressing such problems, as appropriate.

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

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

23          ‘(d) FEDERAL SHARE.—

24           ‘(1) IN GENERAL.—Grants for a project under  
25      this section for a fiscal year shall be available for up

1 to 80 percent of the cost of such project in such fis-  
2 cal year.

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

8 **‘SEC. 445. EVALUATION.**

9 ‘(a) IN GENERAL.—The Secretary, directly or by con-  
10 tract or cooperative agreement, shall evaluate the effec-  
11 tiveness of service projects funded under sections 443 and  
12 444 from the standpoint of the purposes specified in sec-  
13 tion 441(b)(1).

14 ‘(b) EVALUATION METHODOLOGY.—Evaluations  
15 under this section shall—

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

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

24 ‘(3) describe and assess, as appropriate, the im-  
25 pact of such projects on marriage, parenting, domes-

1       tic violence, child abuse and neglect, money manage-  
2       ment, employment and earnings, payment of child  
3       support, and child well-being, health, and education.

4       ‘(c) EVALUATION REPORTS.—The Secretary shall  
5       publish the following reports on the results of the evalua-  
6       tion:

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

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

13   **‘SEC. 446. PROJECTS OF NATIONAL SIGNIFICANCE.**

14       ‘The Secretary is authorized, by grant, contract, or  
15      cooperative agreement, to carry out projects and activities  
16      of national significance relating to fatherhood promotion,  
17      including—

18              ‘(1) COLLECTION AND DISSEMINATION OF IN-  
19      FORMATION.—Assisting States, communities, and  
20      private entities, including religious organizations, in  
21      efforts to promote and support marriage and respon-  
22      sible fatherhood by collecting, evaluating, developing,  
23      and making available (through the Internet and by  
24      other means) to all interested parties information re-

1       garding approaches to accomplishing the objectives  
2       specified in 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  
17       to the purposes of this part.

18       **‘SEC. 447. 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 ac-  
22       tivities, including married and unmarried fathers and cus-  
23       todial and noncustodial fathers, with particular attention  
24       to low-income fathers, and to mothers and expectant  
25       mothers on the same basis as to fathers.

1 **SEC. 448. AUTHORIZATION OF APPROPRIATIONS; RES-**  
 2 **ERVATION FOR CERTAIN PURPOSE.**

3 (a) AUTHORIZATION.—There are authorized to be  
 4 appropriated \$20,000,000 for each of fiscal years 2006  
 5 through 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 15  
 8 percent shall be available for the costs of the multicity,  
 9 multicounty, multistate demonstration projects under sec-  
 10 tion 444, evaluations under section 445, and projects of  
 11 national significance under section 446.’.

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

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

“Sec. 117. Fatherhood program.”.

19 **SEC. 8120. STATE OPTION TO MAKE TANF PROGRAMS MAN-**  
 20 **DATORY PARTNERS WITH ONE-STOP EMPLOY-**  
 21 **MENT TRAINING CENTERS.**

22 Section 408 of the Social Security Act (42 U.S.C.  
 23 608) is amended by adding at the end the following:

24 “(h) STATE OPTION TO MAKE TANF PROGRAMS  
 25 MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT

1 TRAINING CENTERS.—For purposes of section 121(b) of  
2 the Workforce Investment Act of 1998, a State program  
3 funded under part A of title IV of the Social Security Act  
4 shall be considered a program referred to in paragraph  
5 (1)(B) of such section, unless, after the date of the enact-  
6 ment of this subsection, the Governor of the State notifies  
7 the Secretaries of Health and Human Services and Labor  
8 in writing of the decision of the Governor not to make  
9 the State program a mandatory partner.”.

10 **SEC. 8121. SENSE OF THE CONGRESS.**

11 It is the sense of the Congress that a State welfare-  
12 to-work program should include a mentoring program.

13 **SEC. 8122. DRUG TESTING OF APPLICANTS FOR AND RE-**  
14 **CIPIENTS OF ASSISTANCE.**

15 (a) REQUIREMENT.—Section 408(a) (42 U.S.C.  
16 608(a)) is amended by adding at the end the following:

17 “(12) DRUG TESTING REQUIREMENTS.—A  
18 State to which a grant is made under section 403(a)  
19 for a fiscal year shall—

20 “(A) require an individual who has applied  
21 for, or is a recipient of, assistance from the  
22 State program funded under this part to under-  
23 go a physical test designed to detect the use by  
24 the individual of any controlled substance (as  
25 defined in section 102(6) of the Controlled Sub-

1           stances Act) if the State has reason to believe  
2           that the person has unlawfully used such a sub-  
3           stance recently;

4           “(B) if a test administered pursuant to  
5           this paragraph indicates that an individual has  
6           so used such a substance recently, or if the  
7           State otherwise determines (on the basis of  
8           such indicators as the State may establish) that  
9           an individual is likely to have so used such a  
10          substance recently—

11           “(i) ensure that the self-sufficiency  
12           plan developed under section 408(b) with  
13           respect to the individual addresses the use  
14           of the substance;

15           “(ii) suspend the provision of cash as-  
16           sistance under the program to the family  
17           of the individual until a subsequent such  
18           test indicates that the individual has not  
19           been using the substance; and

20           “(iii) require, as a condition of pro-  
21           viding any benefit under the program to  
22           the family of the individual, that the indi-  
23           vidual comply with the self-sufficiency  
24           plan, including the provisions of the plan  
25           that address the use of the substance, and

1           undergo additional such tests every 30 or  
2           60 days, as the State deems appropriate;  
3           and

4           “(C) terminate for 3 years the participa-  
5           tion in the program of the family of any indi-  
6           vidual who tests positive for such use of such  
7           a substance in such number of consecutive tests  
8           administered pursuant to this paragraph (which  
9           shall be not less than 3 and not more than 6)  
10          as the State deems appropriate.”.

11         (b) PENALTY FOR NONCOMPLIANCE.—Section  
12 409(a) (42 U.S.C. 609(a)) is amended by adding at the  
13 end the following:

14           “(15) PENALTY FOR FAILURE TO COMPLY WITH  
15         DRUG TESTING REQUIREMENTS.—If the Secretary  
16         determines that a State has not complied with sec-  
17         tion 408(a)(12) during a fiscal year, the Secretary  
18         shall reduce the grant payable to the State under  
19         section 403(a)(1) for the immediately succeeding fis-  
20         cal year by an amount equal to not less than 5 per-  
21         cent and not more than 10 percent of the State fam-  
22         ily assistance grant, as the Secretary deems appro-  
23         priate based on the frequency and severity of the  
24         noncompliance.”.

## 1                   **Subtitle B—Child Care**

### 2   **SEC. 8201. ENTITLEMENT FUNDING.**

3           Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amend-  
4 ed—

5           (1) by striking “and” at the end of subpara-  
6 graph (E);

7           (2) by striking the period at the end of sub-  
8 paragraph (F) and inserting a semicolon; and

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

10                   “(G) \$2,717,000,000 for fiscal year 2006;

11                   “(H) \$2,767,000,000 for fiscal year 2007;

12                   “(I) \$2,817,000,000 for fiscal year 2008;

13                   “(J) \$2,867,000,000 for fiscal year 2009;

14                   and

15                   “(K) \$2,917,000,000 for fiscal year

16                   2010.”.

## 17                   **Subtitle C—Child Support**

### 18   **SEC. 8301. FEDERAL MATCHING FUNDS FOR LIMITED PASS**

19                   **THROUGH OF CHILD SUPPORT PAYMENTS TO**

20                   **FAMILIES RECEIVING TANF.**

21           (a) IN GENERAL.—Section 457(a) (42 U.S.C.  
22 657(a)) is amended—

23           (1) in paragraph (1)(A), by inserting “subject  
24 to paragraph (7)” before the semicolon; and

25           (2) by adding at the end the following:

1           “(7) FEDERAL MATCHING FUNDS FOR LIMITED  
2 PASS THROUGH OF CHILD SUPPORT PAYMENTS TO  
3 FAMILIES RECEIVING TANF.—Notwithstanding para-  
4 graph (1), a State shall not be required to pay to  
5 the Federal Government the Federal share of an  
6 amount collected during a month on behalf of a fam-  
7 ily that is a recipient of assistance under the State  
8 program funded under part A, to the extent that—

9           “(A) the State distributes the amount to  
10 the family;

11           “(B) the total of the amounts so distrib-  
12 uted to the family during the month—

13           “(i) exceeds the amount (if any) that,  
14 as of December 31, 2001, was required  
15 under State law to be distributed to a fam-  
16 ily under paragraph (1)(B); and

17           “(ii) does not exceed the greater of—

18           “(I) \$100; or

19           “(II) \$50 plus the amount de-  
20 scribed in clause (i); and

21           “(C) the amount is disregarded in deter-  
22 mining the amount and type of assistance pro-  
23 vided to the family under the State program  
24 funded under part A.”.

1 (b) APPLICABILITY.—The amendments made by sub-  
2 section (a) shall apply to amounts distributed on or after  
3 October 1, 2008.

4 **SEC. 8302. STATE OPTION TO PASS THROUGH ALL CHILD**  
5 **SUPPORT PAYMENTS TO FAMILIES THAT**  
6 **FORMERLY RECEIVED TANF.**

7 (a) IN GENERAL.—Section 457(a) (42 U.S.C.  
8 657(a)), as amended by section 8301(a) of this Act, is  
9 amended—

10 (1) in paragraph (2)(B), in the matter pre-  
11 ceding clause (i), by inserting “, except as provided  
12 in paragraph (8),” after “shall”; and

13 (2) by adding at the end the following:

14 “(8) STATE OPTION TO PASS THROUGH ALL  
15 CHILD SUPPORT PAYMENTS TO FAMILIES THAT FOR-  
16 MERLY RECEIVED TANF.—In lieu of applying para-  
17 graph (2) to any family described in paragraph (2),  
18 a State may distribute to the family any amount col-  
19 lected during a month on behalf of the family.”.

20 (b) APPLICABILITY.—The amendments made by sub-  
21 section (a) shall apply to amounts distributed on or after  
22 October 1, 2008.

1 **SEC. 8303. MANDATORY REVIEW AND ADJUSTMENT OF**  
2 **CHILD SUPPORT ORDERS FOR FAMILIES RE-**  
3 **CEIVING TANF.**

4 (a) IN GENERAL.—Section 466(a)(10)(A)(i) (42  
5 U.S.C. 666(a)(10)(A)(i)) is amended—

6 (1) by striking “parent, or,” and inserting  
7 “parent or”; and

8 (2) by striking “upon the request of the State  
9 agency under the State plan or of either parent,”.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 subsection (a) shall take effect on October 1, 2007.

12 **SEC. 8304. MANDATORY FEE FOR SUCCESSFUL CHILD SUP-**  
13 **PORT COLLECTION FOR FAMILY THAT HAS**  
14 **NEVER RECEIVED TANF.**

15 (a) IN GENERAL.—Section 454(6)(B) (42 U.S.C.  
16 654(6)(B)) is amended—

17 (1) by inserting “(i)” after “(B)”;

18 (2) by redesignating clauses (i) and (ii) as sub-  
19 clauses (I) and (II), respectively;

20 (3) by adding “and” after the semicolon; and

21 (4) by adding after and below the end the fol-  
22 lowing new clause:

23 “(ii) in the case of an individual who has  
24 never received assistance under a State pro-  
25 gram funded under part A and for whom the  
26 State has collected at least \$500 of support, the

1 State shall impose an annual fee of \$25 for  
2 each case in which services are furnished, which  
3 shall be retained by the State from support col-  
4 lected on behalf of the individual (but not from  
5 the 1st \$500 so collected), paid by the indi-  
6 vidual applying for the services, recovered from  
7 the absent parent, or paid by the State out of  
8 its own funds (the payment of which from State  
9 funds shall not be considered as an administra-  
10 tive cost of the State for the operation of the  
11 plan, and such fees shall be considered income  
12 to the program);”.

13 (b) CONFORMING AMENDMENT.—Section 457(a)(3)  
14 (42 U.S.C. 657(a)(3)) is amended to read as follows:

15 “(3) FAMILIES THAT NEVER RECEIVED ASSIST-  
16 ANCE.—In the case of any other family, the State  
17 shall distribute to the family the portion of the  
18 amount so collected that remains after withholding  
19 any fee pursuant to section 454(6)(B)(ii).”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on October 1, 2006.

22 **SEC. 8305. REPORT ON UNDISTRIBUTED CHILD SUPPORT**  
23 **PAYMENTS.**

24 Not later than 6 months after the date of the enact-  
25 ment of this Act, the Secretary of Health and Human

1 Services shall submit to the Committee on Ways and  
2 Means of the House of Representatives and the Committee  
3 on Finance of the Senate a report on the procedures that  
4 the States use generally to locate custodial parents for  
5 whom child support has been collected but not yet distrib-  
6 uted. The report shall include an estimate of the total  
7 amount of undistributed child support and the average  
8 length of time it takes undistributed child support to be  
9 distributed. To the extent the Secretary deems appro-  
10 priate, the Secretary shall include in the report rec-  
11 ommendations as to whether additional procedures should  
12 be established at the State or Federal level to expedite  
13 the payment of undistributed child support.

14 **SEC. 8306. DECREASE IN AMOUNT OF CHILD SUPPORT AR-**  
15 **REARAGE TRIGGERING PASSPORT DENIAL.**

16 (a) IN GENERAL.—Section 452(k)(1) (42 U.S.C.  
17 652(k)(1)) is amended by striking “\$5,000” and inserting  
18 “\$2,500”.

19 (b) CONFORMING AMENDMENT.—Section 454(31)  
20 (42 U.S.C. 654(31)) is amended by striking “\$5,000” and  
21 inserting “\$2,500”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on October 1, 2006.

1 **SEC. 8307. USE OF TAX REFUND INTERCEPT PROGRAM TO**  
2 **COLLECT PAST-DUE CHILD SUPPORT ON BE-**  
3 **HALF OF CHILDREN WHO ARE NOT MINORS.**

4 (a) IN GENERAL.—Section 464 (42 U.S.C. 664) is  
5 amended—

6 (1) in subsection (a)(2)(A), by striking “(as  
7 that term is defined for purposes of this paragraph  
8 under subsection (c))”; and

9 (2) in subsection (c)—

10 (A) in paragraph (1)—

11 (i) by striking “(1) Except as pro-  
12 vided in paragraph (2), as used in” and in-  
13 serting “In”; and

14 (ii) by inserting “(whether or not a  
15 minor)” after “a child” each place it ap-  
16 pears; and

17 (B) by striking paragraphs (2) and (3).

18 (b) EFFECTIVE DATE.—The amendments made by  
19 subsection (a) shall take effect on October 1, 2007.

20 **SEC. 8308. GARNISHMENT OF COMPENSATION PAID TO VET-**  
21 **ERANS FOR SERVICE-CONNECTED DISABIL-**  
22 **ITIES IN ORDER TO ENFORCE CHILD SUP-**  
23 **PORT OBLIGATIONS.**

24 (a) IN GENERAL.—Section 459(h) (42 U.S.C.  
25 659(h)) is amended—

1 (1) in paragraph (1)(A)(ii)(V), by striking all  
2 that follows “Armed Forces” and inserting a semi-  
3 colon; and

4 (2) by adding at the end the following:

5 “(3) LIMITATIONS WITH RESPECT TO COM-  
6 PENSATION PAID TO VETERANS FOR SERVICE-CON-  
7 NECTED DISABILITIES.—Notwithstanding any other  
8 provision of this section:

9 “(A) Compensation described in paragraph  
10 (1)(A)(ii)(V) shall not be subject to withholding  
11 pursuant to this section—

12 “(i) for payment of alimony; or

13 “(ii) for payment of child support if  
14 the individual is fewer than 60 days in ar-  
15 rears in payment of the support.

16 “(B) Not more than 50 percent of any  
17 payment of compensation described in para-  
18 graph (1)(A)(ii)(V) may be withheld pursuant  
19 to this section.”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 subsection (a) shall take effect on October 1, 2007.

22 **SEC. 8309. MAINTENANCE OF TECHNICAL ASSISTANCE**  
23 **FUNDING.**

24 Section 452(j) (42 U.S.C. 652(j)) is amended by in-  
25 serting “or the amount appropriated under this paragraph

1 for fiscal year 2002, whichever is greater,” before “which  
2 shall be available”.

3 **SEC. 8310. MAINTENANCE OF FEDERAL PARENT LOCATOR**

4 **SERVICE FUNDING.**

5 Section 453(o) (42 U.S.C. 653(o)) is amended—

6 (1) in the 1st sentence, by inserting “or the  
7 amount appropriated under this paragraph for fiscal  
8 year 2002, whichever is greater,” before “which  
9 shall be available”; and

10 (2) in the 2nd sentence, by striking “for each  
11 of fiscal years 1997 through 2001”.

12 **SEC. 8311. INFORMATION COMPARISONS WITH INSURANCE**

13 **DATA.**

14 (a) DUTIES OF THE SECRETARY.—Section 452 (42  
15 U.S.C. 652) is amended by adding at the end the fol-  
16 lowing:

17 “(m) COMPARISONS WITH INSURANCE INFORMA-  
18 TION.—

19 “(1) IN GENERAL.—The Secretary, through the  
20 Federal Parent Locator Service, may—

21 “(A) compare information concerning indi-  
22 viduals owing past-due support with informa-  
23 tion maintained by insurers (or their agents)  
24 concerning insurance claims, settlements,  
25 awards, and payments, and



1 **SEC. 8314. TECHNICAL AMENDMENT RELATING TO COOP-**  
2 **ERATIVE AGREEMENTS BETWEEN STATES**  
3 **AND INDIAN TRIBES.**

4 Section 454(33) (42 U.S.C. 654(33)) is amended by  
5 striking “that receives funding pursuant to section 428  
6 and”.

7 **SEC. 8315. STATE OPTION TO USE STATEWIDE AUTOMATED**  
8 **DATA PROCESSING AND INFORMATION RE-**  
9 **TRIEVAL SYSTEM FOR INTERSTATE CASES.**

10 Section 466(a)(14)(A)(iii) (42 U.S.C.  
11 666(a)(14)(A)(iii)) is amended by inserting “(but the as-  
12 sisting State may establish a corresponding case based on  
13 such other State’s request for assistance)” before the  
14 semicolon.

15 **SEC. 8316. MODIFICATION OF RULE REQUIRING ASSIGN-**  
16 **MENT OF SUPPORT RIGHTS AS A CONDITION**  
17 **OF RECEIVING TANF.**

18 (a) IN GENERAL.—Section 408(a)(3) (42 U.S.C.  
19 608(a)(3)) is amended to read as follows:

20 “(3) NO ASSISTANCE FOR FAMILIES NOT AS-  
21 SIGNING CERTAIN SUPPORT RIGHTS TO THE  
22 STATE.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (B), a State to which a grant is made  
25 under section 403 shall require, as a condition  
26 of providing assistance to a family under the

1 State program funded under this part, that a  
2 member of the family assign to the State any  
3 rights the family member may have (on behalf  
4 of the family member or of any other person for  
5 whom the family member has applied for or is  
6 receiving such assistance) to—

7 “(i) support from any other person  
8 which accrues during the period that the  
9 family receives assistance under the pro-  
10 gram; and

11 “(ii) at the option of the State, sup-  
12 port from any other person which has ac-  
13 crued before such period.

14 “(B) LIMITATION.—The total amount of  
15 support that may be required to be provided  
16 with respect to rights assigned to a State by a  
17 family member pursuant to subparagraph (A)  
18 shall not exceed the total amount of assistance  
19 provided by the State to the family.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall take effect on October 1, 2008.

22 **SEC. 8317. STATE OPTION TO DISCONTINUE CERTAIN SUP-**  
23 **PORT ASSIGNMENTS.**

24 Section 457(b) (42 U.S.C. 657(b)) is amended by  
25 striking “shall” and inserting “may”.

1 **SEC. 8318. TECHNICAL CORRECTION.**

2 The second paragraph (7) of section 453(j) (42  
3 U.S.C. 653(j)) is amended by striking “(7)” and inserting  
4 “(9)”.

5 **SEC. 8319. REDUCTION IN RATE OF REIMBURSEMENT OF**  
6 **CHILD SUPPORT ADMINISTRATIVE EX-**  
7 **PENSES.**

8 Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amend-  
9 ed—

10 (1) in subparagraph (B), by striking “, and”  
11 and inserting a semicolon;

12 (2) in subparagraph (C), by striking “fiscal  
13 year 1990 and each fiscal year thereafter.” and in-  
14 serting “fiscal years 1990 through 2006;” and

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

16 “(D) 62 percent for fiscal year 2007;

17 “(E) 58 percent for fiscal year 2008;

18 “(F) 54 percent for fiscal year 2009; and

19 “(G) 50 percent for fiscal year 2010 and each  
20 fiscal year thereafter.”.

21 **SEC. 8320. INCENTIVE PAYMENTS.**

22 (a) IN GENERAL.—Section 455(a)(1) (42 U.S.C.  
23 655(a)(1)) is amended by inserting “from amounts paid  
24 to the State under section 458 or” before “to carry out  
25 an agreement”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on October 1, 2007.

3 **Subtitle D—Child Welfare**

4 **SEC. 8401. EXTENSION OF AUTHORITY TO APPROVE DEM-**  
5 **ONSTRATION PROJECTS.**

6 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is  
7 amended by striking “2003” and inserting “2010”.

8 **SEC. 8402. ELIMINATION OF LIMITATION ON NUMBER OF**  
9 **WAIVERS.**

10 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is  
11 amended by striking “not more than 10”.

12 **SEC. 8403. ELIMINATION OF LIMITATION ON NUMBER OF**  
13 **STATES THAT MAY BE GRANTED WAIVERS TO**  
14 **CONDUCT DEMONSTRATION PROJECTS ON**  
15 **SAME TOPIC.**

16 Section 1130 (42 U.S.C. 1320a–9) is amended by  
17 adding at the end the following:

18 “(h) NO LIMIT ON NUMBER OF STATES THAT MAY  
19 BE GRANTED WAIVERS TO CONDUCT SAME OR SIMILAR  
20 DEMONSTRATION PROJECTS.—The Secretary shall not  
21 refuse to grant a waiver to a State under this section on  
22 the grounds that a purpose of the waiver or of the dem-  
23 onstration project for which the waiver is necessary would  
24 be the same as or similar to a purpose of another waiver



1 **SEC. 8406. AVAILABILITY OF REPORTS.**

2 Section 1130 (42 U.S.C. 1320a-9) is further amend-  
3 ed by adding at the end the following:

4 “(k) AVAILABILITY OF REPORTS.—The Secretary  
5 shall make available to any State or other interested party  
6 any report provided to the Secretary under subsection  
7 (f)(2), and any evaluation or report made by the Secretary  
8 with respect to a demonstration project conducted under  
9 this section, with a focus on information that may promote  
10 best practices and program improvements.”.

11 **SEC. 8407. CLARIFICATION OF ELIGIBILITY FOR FOSTER**  
12 **CARE MAINTENANCE PAYMENTS AND ADOPTI-**  
13 **ON ASSISTANCE.**

14 (a) FOSTER CARE MAINTENANCE PAYMENTS.—Sec-  
15 tion 472(a) (42 U.S.C. 672(a)) is amended to read as fol-  
16 lows:

17 “(a) IN GENERAL.—

18 “(1) ELIGIBILITY.—Each State with a plan ap-  
19 proved under this part shall make foster care main-  
20 tenance payments on behalf of each child who has  
21 been removed from the home of a relative specified  
22 in section 406(a) (as in effect on July 16, 1996)  
23 into foster care if—

24 “(A) the removal and foster care place-  
25 ment met, and the placement continues to meet,  
26 the requirements of paragraph (2); and

1           “(B) the child, while in the home, would  
2           have met the AFDC eligibility requirement of  
3           paragraph (3).

4           “(2) REMOVAL AND FOSTER CARE PLACEMENT  
5           REQUIREMENTS.—The removal and foster care  
6           placement of a child meet the requirements of this  
7           paragraph if—

8           “(A) the removal and foster care place-  
9           ment are in accordance with—

10           “(i) a voluntary placement agreement  
11           entered into by a parent or legal guardian  
12           of the child who is the relative referred to  
13           in paragraph (1); or

14           “(ii) a judicial determination to the  
15           effect that continuation in the home from  
16           which removed would be contrary to the  
17           welfare of the child and that reasonable ef-  
18           forts of the type described in section  
19           471(a)(15) for a child have been made;

20           “(B) the child’s placement and care are  
21           the responsibility of—

22           “(i) the State agency administering  
23           the State plan approved under section 471;  
24           or

1           “(ii) any other public agency with  
2           which the State agency administering or  
3           supervising the administration of the State  
4           plan has made an agreement which is in  
5           effect; and

6           “(C) the child has been placed in a foster  
7           family home or child-care institution.

8           “(3) AFDC ELIGIBILITY REQUIREMENT.—

9           “(A) IN GENERAL.—A child in the home  
10          referred to in paragraph (1) would have met  
11          the AFDC eligibility requirement of this para-  
12          graph if the child—

13               “(i) would have received aid under the  
14               State plan approved under section 402 (as  
15               in effect on July 16, 1996) in the home, in  
16               or for the month in which the agreement  
17               was entered into or court proceedings lead-  
18               ing to the determination referred to in  
19               paragraph (2)(A)(ii) of this subsection  
20               were initiated; or

21               “(ii)(I) would have received the aid in  
22               the home, in or for the month referred to  
23               in clause (i), if application had been made  
24               therefor; or

1           “(II) had been living in the home  
2           within 6 months before the month in which  
3           the agreement was entered into or the pro-  
4           ceedings were initiated, and would have re-  
5           ceived the aid in or for such month, if, in  
6           such month, the child had been living in  
7           the home with the relative referred to in  
8           paragraph (1) and application for the aid  
9           had been made.

10           “(B) RESOURCES DETERMINATION.—For  
11           purposes of subparagraph (A), in determining  
12           whether a child would have received aid under  
13           a State plan approved under section 402 (as in  
14           effect on July 16, 1996), a child whose re-  
15           sources (determined pursuant to section  
16           402(a)(7)(B), as so in effect) have a combined  
17           value of not more than \$10,000 shall be consid-  
18           ered a child whose resources have a combined  
19           value of not more than \$1,000 (or such lower  
20           amount as the State may determine for pur-  
21           poses of section 402(a)(7)(B)).

22           “(4) ELIGIBILITY OF CERTAIN ALIEN CHIL-  
23           DREN.—Subject to title IV of the Personal Responsi-  
24           bility and Work Opportunity Reconciliation Act of  
25           1996, if the child is an alien disqualified under sec-

1       tion 245A(h) or 210(f) of the Immigration and Na-  
2       tionality Act from receiving aid under the State plan  
3       approved under section 402 in or for the month in  
4       which the agreement described in paragraph  
5       (2)(A)(i) was entered into or court proceedings lead-  
6       ing to the determination described in paragraph  
7       (2)(A)(ii) were initiated, the child shall be consid-  
8       ered to satisfy the requirements of paragraph (3),  
9       with respect to the month, if the child would have  
10      satisfied the requirements but for the disqualifica-  
11      tion.”.

12      (b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42  
13 U.S.C. 673(a)(2)) is amended to read as follows:

14      “(2)(A) For purposes of paragraph (1)(B)(ii), a child  
15      meets the requirements of this paragraph if the child—

16              “(i)(I)(aa) was removed from the home of a rel-  
17              ative specified in section 406(a) (as in effect on July  
18              16, 1996) and placed in foster care in accordance  
19              with a voluntary placement agreement with respect  
20              to which Federal payments are provided under sec-  
21              tion 474 (or section 403, as such section was in ef-  
22              fect on July 16, 1996), or in accordance with a judi-  
23              cial determination to the effect that continuation in  
24              the home would be contrary to the welfare of the  
25              child; and

1           “(bb) met the requirements of section 472(a)(3)  
2           with respect to the home referred to in item (aa) of  
3           this subclause;

4           “(II) meets all of the requirements of title XVI  
5           with respect to eligibility for supplemental security  
6           income benefits; or

7           “(III) is a child whose costs in a foster family  
8           home or child-care institution are covered by the fos-  
9           ter care maintenance payments being made with re-  
10          spect to the minor parent of the child as provided  
11          in section 475(4)(B); and

12          “(ii) has been determined by the State, pursu-  
13          ant to subsection (c) of this section, to be a child  
14          with special needs.

15          “(B) Section 472(a)(4) shall apply for purposes of  
16          subparagraph (A) of this paragraph, in any case in which  
17          the child is an alien described in such section.

18          “(C) A child shall be treated as meeting the require-  
19          ments of this paragraph for the purpose of paragraph  
20          (1)(B)(ii) if the child—

21                 “(i) meets the requirements of subparagraph  
22                 (A)(ii);

23                 “(ii) was determined eligible for adoption assist-  
24                 ance payments under this part with respect to a  
25                 prior adoption;

1 “(iii) is available for adoption because—

2 “(I) the prior adoption has been dissolved,  
3 and the parental rights of the adoptive parents  
4 have been terminated; or

5 “(II) the child’s adoptive parents have  
6 died; and

7 “(iv) fails to meet the requirements of subpara-  
8 graph (A) but would meet such requirements if—

9 “(I) the child were treated as if the child  
10 were in the same financial and other cir-  
11 cumstances the child was in the last time the  
12 child was determined eligible for adoption as-  
13 sistance payments under this part; and

14 “(II) the prior adoption were treated as  
15 never having occurred.”.

16 **SEC. 8408. CLARIFICATION REGARDING FEDERAL MATCH-**  
17 **ING OF CERTAIN ADMINISTRATIVE COSTS**  
18 **UNDER THE FOSTER CARE MAINTENANCE**  
19 **PAYMENTS PROGRAM.**

20 (a) ADMINISTRATIVE COSTS RELATING TO UNLI-  
21 CENSED CARE.—Section 472 (42 U.S.C. 672) is amended  
22 by inserting after subsection (h) the following:

23 “(i) ADMINISTRATIVE COSTS ASSOCIATED WITH  
24 OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOS-  
25 TER CARE SETTINGS.—Expenditures by a State that

1 would be considered administrative expenditures for pur-  
2 poses of section 474(a)(3) if made with respect to a child  
3 who was residing in a foster family home or child-care in-  
4 stitution shall be so considered with respect to a child not  
5 residing in such a home or institution—

6           “(1) in the case of a child who has been re-  
7 moved in accordance with subsection (a) of this sec-  
8 tion from the home of a relative specified in section  
9 406(a) (as in effect on July 16, 1996), only for ex-  
10 penditures—

11           “(A) with respect to a period of not more  
12 than the lesser of 12 months or the average  
13 length of time it takes for the State to license  
14 or approve a home as a foster home, in which  
15 the child is in the home of a relative and an ap-  
16 plication is pending for licensing or approval of  
17 the home as a foster family home; or

18           “(B) with respect to a period of not more  
19 than 1 calendar month when a child moves  
20 from a facility not eligible for payments under  
21 this part into a foster family home or child care  
22 institution licensed or approved by the State;  
23 and

24           “(2) in the case of any other child who is poten-  
25 tially eligible for benefits under a State plan ap-

1 proved under this part and at imminent risk of re-  
2 moval from the home, only if—

3 “(A) reasonable efforts are being made in  
4 accordance with section 471(a)(15) to prevent  
5 the need for, or if necessary to pursue, removal  
6 of the child from the home; and

7 “(B) the State agency has made, not less  
8 often than every 6 months, a determination (or  
9 redetermination) as to whether the child re-  
10 mains at imminent risk of removal from the  
11 home.”.

12 (b) CONFORMING AMENDMENT.—Section 474(a)(3)  
13 of such Act (42 U.S.C. 674(a)(3)) is amended by inserting  
14 “subject to section 472(i)” before “an amount equal to”.

15 **SEC. 8409. TECHNICAL CORRECTION.**

16 Section 1130(b)(1) (42 U.S.C. 1320a–9(b)(1)) is  
17 amended by striking “422(b)(9)” and inserting  
18 “422(b)(10)”.

19 **SEC. 8410. TECHNICAL CORRECTION.**

20 Section 470 (42 U.S.C. 670) is amended by striking  
21 “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 add-  
6     ing 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  
3 incorrect.”.

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”  
9 and inserting “3”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall take effect 3 months after the date  
12 of the 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 es-  
18 tablish a program of demonstration projects in a State or  
19 portion of a State to coordinate multiple public assistance,  
20 workforce development, and other programs, for the pur-  
21 pose of supporting working individuals and families, help-  
22 ing families escape welfare dependency, promoting child  
23 well-being, or helping build stronger families, using inno-  
24 vative approaches to strengthen service systems and pro-  
25 vide more coordinated and effective service delivery.

1 (b) DEFINITIONS.—In this section:

2 (1) ADMINISTERING SECRETARY.—The term  
3 “administering Secretary” means, with respect to a  
4 qualified program, the head of the Federal agency  
5 responsible 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  
11 Act.

12 (c) APPLICATION REQUIREMENTS.—The head of a  
13 State entity or of a sub-State entity administering 2 or  
14 more qualified programs proposed to be included in a dem-  
15 onstration project under this section shall (or, if the  
16 project is proposed to include qualified programs adminis-  
17 tered by 2 or more such entities, the heads of the admin-  
18 istering entities (each of whom shall be considered an ap-  
19 plicant for purposes of this section) shall jointly) submit  
20 to the administering Secretary of each such program an  
21 application that contains the following:

22 (1) PROGRAMS INCLUDED.—A statement identi-  
23 fying each qualified program to be included in the  
24 project, and describing how the purposes of each  
25 such 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  
8                   the purposes of the programs to be included in  
9                   the project, from the standpoint of quality, of  
10                  cost-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  
16           the statutory and regulatory requirements with re-  
17           spect to which a waiver is requested in order to  
18           carry out the project, and a justification of the need  
19           for each such waiver.

20           (5) COST NEUTRALITY.—Such information and  
21           assurances as necessary to establish to the satisfac-  
22           tion of the administering Secretary, in consultation  
23           with the Director of the Office of Management and  
24           Budget, that the proposed project is reasonably ex-

1       pected to meet the applicable cost neutrality require-  
2       ments of 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 ad-  
11       ministering 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 appli-  
18       cable 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  
2 the applicable cost neutrality requirements of  
3 paragraph (4), as determined by the Director of  
4 the 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  
9 paragraph (1) with respect to any provision of law  
10 relating 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  
7 Secretary shall have in place an agreement with  
8 the applicant with respect to the payment of  
9 funds and responsibilities required of the ad-  
10 ministering Secretary with respect to the  
11 project.

12 (4) COST-NEUTRALITY REQUIREMENT.—

13 (A) GENERAL RULE.—Notwithstanding  
14 any other provision of law (except subparagraph  
15 (B)), the total of the amounts that may be paid  
16 by the Federal Government for a fiscal year  
17 with respect to the programs in the State in  
18 which an entity conducting a demonstration  
19 project under this section is located that are af-  
20 fected by the project shall not exceed the esti-  
21 mated total amount that the Federal Govern-  
22 ment would have paid for the fiscal year with  
23 respect to the programs if the project had not  
24 been conducted, as determined by the Director  
25 of the Office of Management and Budget.

1 (B) SPECIAL RULE.—If an applicant sub-  
2 mits to the Director of the Office of Manage-  
3 ment and Budget a request to apply the rules  
4 of this subparagraph to the programs in the  
5 State in which the applicant is located that are  
6 affected by a demonstration project proposed in  
7 an application submitted by the applicant pur-  
8 suant to this section, during such period of not  
9 more than 5 consecutive fiscal years in which  
10 the project is in effect, and the Director deter-  
11 mines, on the basis of supporting information  
12 provided by the applicant, to grant the request,  
13 then, notwithstanding any other provision of  
14 law, the total of the amounts that may be paid  
15 by the Federal Government for the period with  
16 respect to the programs shall not exceed the es-  
17 timated total amount that the Federal Govern-  
18 ment would have paid for the period with re-  
19 spect to the programs if the project had not  
20 been conducted.

21 (5) 90-DAY APPROVAL DEADLINE.—

22 (A) IN GENERAL.—If an administering  
23 Secretary receives an application to conduct a  
24 demonstration project under this section and

1 does not disapprove the application within 90  
2 days after the receipt, then—

3 (i) the administering Secretary is  
4 deemed to have approved the application  
5 for such period as is requested in the ap-  
6 plication, except to the extent inconsistent  
7 with subsection (e); and

8 (ii) any waiver requested in the appli-  
9 cation which applies to a qualified program  
10 that is identified in the application and is  
11 administered by the administering Sec-  
12 retary is deemed to be granted, except to  
13 the extent inconsistent with paragraph (2)  
14 or (4) of this subsection.

15 (B) DEADLINE EXTENDED IF ADDITIONAL  
16 INFORMATION IS SOUGHT.—The 90-day period  
17 referred to in subparagraph (A) shall not in-  
18 clude any period that begins with the date the  
19 Secretary requests the applicant to provide ad-  
20 ditional information with respect to the applica-  
21 tion and ends with the date the additional in-  
22 formation is provided.

23 (e) DURATION OF PROJECTS.—A demonstration  
24 project under this section may be approved for a term of  
25 not more than 5 years.

1 (f) REPORTS TO CONGRESS.—

2 (1) REPORT ON DISPOSITION OF APPLICA-  
3 TIONS.—Within 90 days after an administering Sec-  
4 retary receives an application submitted pursuant to  
5 this section, the administering Secretary shall sub-  
6 mit to each Committee of the Congress which has  
7 jurisdiction over a qualified program identified in  
8 the application notice of the receipt, a description of  
9 the decision of the administering Secretary with re-  
10 spect to the application, and the reasons for approv-  
11 ing or disapproving the application.

12 (2) REPORTS ON PROJECTS.—Each admin-  
13 istering Secretary shall provide annually to the Con-  
14 gress a report concerning demonstration projects ap-  
15 proved under this section, including—

16 (A) the projects approved for each appli-  
17 cant;

18 (B) the number of waivers granted under  
19 this section, and the specific statutory provi-  
20 sions waived;

21 (C) how well each project for which a waiv-  
22 er is granted is improving or enhancing pro-  
23 gram achievement from the standpoint of qual-  
24 ity, cost-effectiveness, or both;

1 (D) how well each project for which a  
2 waiver is granted is meeting the performance  
3 objectives 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  
17 in the table of contents for title VII of that Act, are re-  
18 pealed.

19 (b) EXISTING ACCOUNTS.—All amounts remaining,  
20 upon the enactment of this title, in any special account  
21 established under section 754(e)(1) of the Tariff Act of  
22 1930 (as in effect on the day before the date of the enact-  
23 ment of this title) shall be deposited in the general fund  
24 of the 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 de-  
8 termines requires State legislation in order for the plan  
9 to meet the additional requirements imposed by the  
10 amendments made by this title, the effective date of the  
11 amendments imposing the additional requirements shall be  
12 3 months after the first day of the first calendar quarter  
13 beginning after the close of the first regular session of the  
14 State legislature that begins after the date of the enact-  
15 ment of this Act. For purposes of the preceding sentence,  
16 in the case of a State that has a 2-year legislative session,  
17 each year of the session shall be considered to be a sepa-  
18 rate regular session of the State legislature.

Union Calendar No. 151

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 4241**

[Report No. 109-276]

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**A BILL**

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

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NOVEMBER 7, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed