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In the House of Representatives, U. S.,

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

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

AMENDMENT:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Deficit Reduction Act of 2005''.

SEC. 2. TABLE OF TITLES.

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

TITLE I—COMMITTEE ON AGRICULTURE

SECTION 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of 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.

Subtitle A—Commodity Programs

SEC. 1101. PERCENTAGE REDUCTION IN AMOUNT OF DIRECT PAYMENTS FOR COVERED COMMODITIES AND PEANUTS.

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

(1) in subsection (c), by striking "The amount" and inserting "Except as provided in subsection (e), the amount"; and

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

"(e) DIRECT PAYMENT AMOUNT REDUCTION.—Notwithstanding subsection (c), for the 2006 and 2007 crop years (and the 2008 and 2009 crop years if direct payments are provided under this section for those crop years), the Secretary shall reduce the total amount of the direct pay-

ment to be paid to the producers on a farm for a covered commodity for the crop year concerned by an amount equal to 1 percent of the direct payment amount otherwise determined for that farm for that covered commodity for that crop year. No reduction shall be made under the authority of this subsection if direct payments are made for the 2010 or any subsequent crop year of a covered commodity.".

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

(1) in subsection (d), by striking "The amount" and inserting "Except as provided in subsection (f), the amount"; and

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

"(f) DIRECT PAYMENT AMOUNT REDUCTION.—Notwithstanding subsection (d), for the 2006 and 2007 crops of peanuts (and the 2008 and 2009 crops of peanuts if direct payments are provided under this section for those crops), the Secretary shall reduce the total amount of the direct payment to be paid to the producers on a farm for that crop of peanuts by an amount equal to 1 percent of the direct payment amount otherwise determined for that farm for that crop of peanuts. No reduction shall be made under the authority of this subsection if direct payments are made for the 2010 or any subsequent crop of peanuts.".

SEC. 1102. REDUCTION IN PERCENTAGE OF DIRECT PAYMENT AMOUNT AUTHORIZED TO BE PAID IN ADVANCE.

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

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

SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.

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

*(1) by striking the section heading and inserting the following: "**UPLAND COTTON IMPORT QUOTAS.**";*

(2) by striking subsection (a);

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

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

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ", adjusted for the value of any certificate issued under subsection (a),"; and

(ii) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)"; and

(B) in paragraph (4), by striking "subsection (c)" and inserting "subsection (b)"; and

(5) in subsection (b)(2), as so redesignated, by striking "subsection (b)" and inserting "subsection (a)".

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

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

Subtitle B—Conservation

SEC. 1201. LIMITATIONS ON USE OF COMMODITY CREDIT CORPORATION FUNDS TO CARRY OUT WATERSHED REHABILITATION PROGRAM.

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

(b) TERMINATION OF MULTI-YEAR AVAILABILITY OF FUNDS.—Such section is further amended by striking ", to remain available until expended" in the matter preceding subparagraph (A).

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

SEC. 1202. CONSERVATION SECURITY PROGRAM.

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

(1) in the matter before paragraph (1), by striking "For" and inserting "Except as otherwise provided in this subsection, for"; and

(2) in paragraph (3), by striking "not more than $6,037,000,000" and all that follows through "2014." and inserting the following:

"not more than—

"(A) $2,213,000,000 for the period of fiscal years 2006 through 2010; and

"(B) $5,729,000,000 for the period of fiscal years 2006 through 2015.".

(b) DURATION.—Section 1238A(a) of such Act (16 U.S.C. 3838a(a)) is amended by striking "2007" and inserting "2011".

SEC. 1203. LIMITATIONS ON USE OF COMMODITY CREDIT CORPORATION FUNDS TO CARRY OUT AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.

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

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

(2) in clauses (ii) and (iii), by striking "2007" both places it appears and inserting "2006".

Subtitle C—Energy

SEC. 1301. TERMINATION OF USE OF COMMODITY CREDIT CORPORATION FUNDS TO CARRY OUT RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS PROGRAM.

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking "2007" and inserting "2006".

Subtitle D—Rural Development

SEC. 1401. ENHANCED ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

(a) TERMINATION OF FISCAL YEAR 2007 FUNDING.—Subparagraph (B) of section 601(j)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)) is amended

by striking "for each of fiscal years 2006 and 2007" and inserting "for fiscal year 2006".

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

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

SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

(a) TERMINATION OF FISCAL YEAR 2007 FUNDING.—Section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) is amended by striking "October 1, 2006" and inserting "October 1, 2005".

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

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

SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.

(a) TERMINATION OF FISCAL YEAR 2007 AND SUBSEQUENT FUNDING.—Subsection (a)(1) of section 384S of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–18) is amended by inserting after "necessary" the following: "through fiscal year 2006".

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

(1) by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

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

SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT GRANTS.

(a) TERMINATION OF MULTI-YEAR AVAILABILITY OF FUNDS.—Subsection (a) of section 385E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd–4) is amended by striking ", to remain available until expended,".

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

SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANTS.

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

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

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

Subtitle E—Research

SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.

(a) TERMINATION OF FISCAL YEAR 2007, 2008, AND 2009 TRANSFERS.—Subsection (b)(3)(D) of section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended by striking "2006" and inserting "2009".

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

"(6) AVAILABILITY OF FUNDS.—

"(A) TWO-YEAR AVAILABILITY.—Except as provided in subparagraph (B), funds for grants under this section shall be available to the Secretary for obligation for a 2-year period beginning on the date of the transfer of the funds under subsection (b).

"(B) EXCEPTION FOR FISCAL YEAR 2006 TRANSFER.—In the case of the funds required to be transferred by subsection (b)(3)(C), the funds shall be available to the Secretary for obligation for the 1-year period beginning on October 1, 2005.".

Subtitle F—Nutrition

SEC. 1601. ELIGIBLE HOUSEHOLDS.

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

(1) in section 5—

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

(B) in subsection (j);

by striking "receives benefits" each place it appears and inserting "in fiscal years 2006 through 2010 receives cash assistance, and in any other fiscal year receives benefits,";

(2) in section 5(a) by adding at the end the following:

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

(3) in section 5(j) by adding at the end the following:

"Notwithstanding subsections (a) through (i), a State agency shall consider a member of a household in which each household member receives substantial and ongoing noncash benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) provided for purposes of shelter, utilities, child care, health care, transportation, or job training, and which has a monthly income that does not exceed (before the exclusions

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

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

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

(2) section 16—

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

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

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

(4) section 18(a); and

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

by striking "2007" each place it appears and inserting "2011".

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

(1) in subsection (b)(12)—

(A) in subparagraph (A)—

(i) in clause (v), by striking "; or" and inserting a semicolon;

(ii) in clause (vi), by striking the period and inserting "; or"; and

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

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

(B) in subparagraph (B), by striking "or assistance" and inserting ", benefits, or assistance"; and

(2) in subsection (d)(2)—

(A) in subparagraph (D), by striking "; or" and inserting a semicolon;

(B) in subparagraph (E), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

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

SEC. 1602. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

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

(1) by striking "2007," and inserting "2005 and for each of the fiscal years 2007 through 2011";

(2) by inserting ", and for fiscal year 2006 the Secretary shall purchase $152,000,000," before "of a variety"; and

(3) by adding at the end the following:

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

Hurricane Katrina or Hurricane Rita and States contiguous to those States.".

SEC. 1603. RESIDENCY REQUIREMENT.

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

"(1) effective until September 30, 2010—

"(A) for an alien—

"(i)(I) who is 60 years of age or older; or

"(II) with respect to whom—

"(aa) an application for naturalization under Immigration and Nationality Act is approved; or

"(bb) such application is pending under such Act and no previous application for naturalization has been rejected under such Act; and

"(ii) who is a member of a household that receives food stamp benefits;

as of the date of the enactment of the Agricultural Reconciliation Act of 2005, of 5 years or more; and

"(B) for an alien with respect to whom subparagraph (A) does not apply, of 7 years or more; and

"(2) effective beginning on October 1, 2010, of 5 years or more;

beginning".

SEC. 1604. DISASTER FOOD STAMP PROGRAM.

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

TITLE II—COMMITTEE ON EDUCATION AND THE WORKFORCE

SECTION 2000. TABLE OF CONTENTS.

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*

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

PART 2—TANF

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

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

> *"(ii) Require a parent or caretaker receiving assistance under the program to engage in work or alternative self-sufficiency activities (as defined by the State), consistent with section 407(e)(2).*
>
> *"(iii) Require families receiving assistance under the program to engage in activities in accordance with family self-sufficiency plans developed pursuant to section 408(b).".*

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

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

"(b) FAMILY SELF-SUFFICIENCY PLANS.—

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

"(A) assess, in the manner deemed appropriate by the State, the skills, prior work experience, and employability of each work-eligible individual (as defined in section 407(b)(2)(C)) receiving assistance under the State program funded under this part;

"(B) establish for each family that includes such an individual, in consultation as the State deems appropriate with the individual, a self-sufficiency plan that specifies appropriate activities described in the State plan submitted pursuant to section 402, including direct work activities as appropriate designed to assist the family in achieving their maximum degree of self-sufficiency, and that provides for the ongoing participation of the individual in the activities;

"(C) require, at a minimum, each such individual to participate in activities in accordance with the self-sufficiency plan;

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

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

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

"(A) in the case of a family that, as of October 1, 2005, is not receiving assistance from the State program funded under this part, not later than 60 days after the family first receives assistance on the basis of the most recent application for the assistance; or

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

"(3) STATE DISCRETION.—A State shall have sole discretion, consistent with section 407, to define and design activities for families for purposes of this subsection, to develop methods for monitoring and reviewing progress pursuant to this subsection, and to make modifications to the plan as the State deems appropriate to assist the individual in increasing their degree of self-sufficiency.

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

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

"(B) using job search or other appropriate job readiness or work activities to assess the employability of individuals and to determine appropriate future engagement activities.".

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

(A) in the paragraph heading, by inserting "OR ESTABLISH FAMILY SELF-SUFFICIENCY PLAN" after "RATES"; and

(B) in subparagraph (A), by inserting "or 408(b)" after "407(a)".

SEC. 2012. WORK PARTICIPATION REQUIREMENTS.

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

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

(2) Section 407(b)(4) (42 U.S.C. 607(b)(4)) is amended by striking "paragraphs (1)(B) and (2)(B)" and inserting "paragraph (1)(B)".

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

(4) Section 407(c)(2)(D) (42 U.S.C. 607(c)(2)(D)) is amended by striking "paragraphs (1)(B)(i) and (2)(B) of subsection (b)" and inserting "subsection (b)(1)(B)(i)".

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

"SEC. 407. WORK PARTICIPATION REQUIREMENTS.

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

"(1) 50 percent for fiscal year 2006;

"(2) 55 percent for fiscal year 2007;

"(3) 60 percent for fiscal year 2008;

"(4) 65 percent for fiscal year 2009; and

"(5) 70 percent for fiscal year 2010 and each succeeding fiscal year.

"(b) CALCULATION OF PARTICIPATION RATES.—

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

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

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

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

"(ii) 160 multiplied by the number of counted families for the State for the month.

"(B) COUNTED FAMILIES DEFINED.—

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

"(ii) STATE OPTION TO EXCLUDE CERTAIN FAMILIES.—At the option of a State, the term 'counted family' shall not include—

"(I) a family in the first month for which the family receives assistance

from a State program funded under this part on the basis of the most recent application for such assistance;

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

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

"(iii) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN OR TRIBAL WORK PROGRAM.—At the option of a State, the term 'counted family' may include families in the State that are receiving assistance under a tribal family assistance plan approved under section 412 or under a tribal work program to which funds are provided under this part.

"(C) WORK-ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term 'work-eligible individual' means an individual—

"(i) who is married or a single head of household; and

"(ii) whose needs are (or, but for sanctions under this part or part D, would be) included in determining the amount of cash assistance to be provided to the family under the State program funded under this part.".

(c) RECALIBRATION OF CASELOAD REDUCTION CREDIT.—

(1) IN GENERAL.—Section 407(b)(3)(A)(ii) (42 U.S.C. 607(b)(3)(A)(ii)) is amended to read as follows:

"(ii) the average monthly number of families that received assistance under the State program funded under this part during the base year.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the close parenthesis and inserting "and the eligibility criteria in effect during the then applicable base year".

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

"(C) BASE YEAR DEFINED.—In this paragraph, the term 'base year' means, with respect to a fiscal year—

"(i) if the fiscal year is fiscal year 2006, fiscal year 1996;

"(ii) if the fiscal year is fiscal year 2007, fiscal year 1998;

"(iii) if the fiscal year is fiscal year 2008, fiscal year 2001; or

"(iv) if the fiscal year is fiscal year 2009 or any succeeding fiscal year, the then 4th preceding fiscal year.".

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

"(4) SUPERACHIEVER CREDIT.—

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

"(i) the amount (if any) of the superachiever credit applicable to the State; or

"(ii) the number of percentage points (if any) by which the minimum participation rate required by subsection (a) for the fiscal year exceeds 50 percent.

"(B) SUPERACHIEVER STATE.—For purposes of subparagraph (A), a State is a superachiever State if the State caseload for fiscal year 2001 has declined by at least 60 percent from the State caseload for fiscal year 1995.

"(C) AMOUNT OF CREDIT.—The superachiever credit applicable to a State is the number of percentage points (if any) by which the decline referred to in subparagraph (B) exceeds 60 percent.

"(D) DEFINITIONS.—In this paragraph:

"(i) STATE CASELOAD FOR FISCAL YEAR 2001.—The term 'State caseload for fiscal year 2001' means the average monthly number of families that received assistance during fiscal year 2001 under the State program funded under this part.

"(ii) STATE CASELOAD FOR FISCAL YEAR 1995.—The term 'State caseload for fiscal year 1995' means the average monthly number of families that received aid under

the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.".

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

"(c) COUNTABLE HOURS.—

"(1) DEFINITION.—In subsection (b)(2), the term 'countable hours' means, with respect to a family for a month, the total number of hours in the month in which any member of the family who is a work-eligible individual is engaged in a direct work activity or other activities specified by the State (excluding an activity that does not address a purpose specified in section 401(a)), subject to the other provisions of this subsection.

"(2) LIMITATIONS.—Subject to such regulations as the Secretary may prescribe:

"(A) MINIMUM WEEKLY AVERAGE OF 24 HOURS OF DIRECT WORK ACTIVITIES REQUIRED.—If the work-eligible individuals in a family are engaged in a direct work activity for an average total of fewer than 24 hours per week in a month, then the number of countable hours

with respect to the family for the month shall be zero.

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

"(3) SPECIAL RULES.—For purposes of paragraph (1):

"(A) PARTICIPATION IN QUALIFIED ACTIVITIES.—

"(i) IN GENERAL.—If, with the approval of the State, the work-eligible individuals in a family are engaged in 1 or more qualified activities for an average total of at least 24 hours per week in a month, then all such engagement in the month shall be considered engagement in a direct work activity, subject to clause (iii).

"(ii) QUALIFIED ACTIVITY DEFINED.—The term 'qualified activity' means an activity specified by the State (subject to the exclusion described in paragraph (1)) that

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

"(I) substance abuse counseling or treatment;

"(II) rehabilitation treatment and services;

"(III) work-related education or training directed at enabling the family member to work;

"(IV) job search or job readiness assistance; and

"(V) any other activity that addresses a purpose specified in section 401(a).

"(iii) LIMITATION.—

"(I) IN GENERAL.—Except as provided in subclause (II), clause (i) shall not apply to a family for more than 3 months in any period of 24 consecutive months.

"(II) SPECIAL RULE APPLICABLE TO EDUCATION AND TRAINING.—A State may, on a case-by-case basis, apply clause (i) to a work-eligible individual so that participation by the in-

dividual in education or training, if needed to permit the individual to complete a certificate program or other work-related education or training directed at enabling the individual to fill a known job need in a local area, may be considered countable hours with respect to the family of the individual for not more than 4 months in any period of 24 consecutive months.

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

"(i) maintains satisfactory attendance at secondary school or the equivalent in the month; or

"(ii) participates in education directly related to employment for an average of at least 20 hours per week in the month.

"(C) PARENTAL PARTICIPATION IN SCHOOLS.—Each work-eligible individual in a family shall make verified visits at least twice per school year to the school of each of the individual's minor dependent children required to attend school under the law of the State in which the minor children reside, during the period in which the family receives assistance under the program funded under this part. Hours spent in such activity may be specified by the State as countable hours for purposes of paragraph (2)(B).

"(d) DIRECT WORK ACTIVITY.—In this section, the term 'direct work activity' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) on-the-job training;

"(5) supervised work experience; or

"(6) supervised community service.".

(f) PENALTIES AGAINST INDIVIDUALS.—Section 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as follows:

"(1) REDUCTION OR TERMINATION OF ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in paragraph (2), if an individual in a family receiving assistance under a State program funded under this part fails to engage in activities required in accordance with this section, or other activities required by the State under the program, and the family does not otherwise engage in activities in accordance with the self-sufficiency plan established for the family pursuant to section 408(b), the State shall—

"(i) if the failure is partial or persists for not more than 1 month—

"(I) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the failure occurs; or

"(II) terminate all assistance to the family, subject to such good cause exceptions as the State may establish; or

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

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

"(B) SPECIAL RULE.—

"(i) IN GENERAL.—In the event of a conflict between a requirement of clause (i)(II) or (ii) of subparagraph (A) and a requirement of a State constitution, or of a State statute that, before 1966, obligated local government to provide assistance to needy parents and children, the State constitutional or statutory requirement shall control.

"(ii) LIMITATION.—Clause (i) of this subparagraph shall not apply after the 1-year period that begins with the date of the enactment of this subparagraph.".

(g) CONFORMING AMENDMENTS.—

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

activity described in subsection (d)" and inserting "direct work activity".

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

SEC. 2013. WORK-RELATED PERFORMANCE IMPROVEMENT.

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

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

"(vii) The document shall—

"(I) describe how the State will pursue ending dependence of needy families on government benefits and reducing poverty by promoting job preparation and work;

"(II) include specific, numerical, and measurable performance objectives for accomplishing subclause (I); and

"(III) describe the methodology that the State will use to measure State performance in relation to each such objective.

"(viii) Describe any strategies and programs the State may be undertaking to address—

"(I) employment retention and advancement for recipients of assistance under the program, including placement into high-demand jobs, and whether the jobs are identified using labor market information;

"(II) services for struggling and noncompliant families, and for clients with special problems; and

"(III) program integration, including the extent to which employment and training services under the program are provided through the One-Stop delivery system created under the Workforce Investment Act of 1998, and the extent to which former recipients of such assistance have access to additional core, intensive, or training services funded through such Act."; and

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

(b) REPORT ON ANNUAL PERFORMANCE IMPROVEMENT.—Section 411 (42 U.S.C. 611) is amended by adding at the end the following:

"(c) ANNUAL REPORT ON PERFORMANCE IMPROVEMENT.—Beginning with fiscal year 2007, not later than January 1 of each fiscal year, each eligible State shall submit to the Secretary a report on achievement and improvement during the preceding fiscal year under the numerical performance goals and measures under the State program funded under this part with respect to the matter described in section 402(a)(1)(A)(vii).".

(c) ANNUAL RANKING OF STATES.—Section 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking "long-term private sector jobs," and inserting "private sector jobs, the success of the recipients in retaining employment, the ability of the recipients to increase their wages,".

(d) PERFORMANCE IMPROVEMENT.—Section 413 (42 U.S.C. 613) is amended by adding at the end the following:

"(k) PERFORMANCE IMPROVEMENT.—The Secretary, in consultation with States, shall develop uniform performance measures designed to assess the degree of effectiveness, and the degree of improvement, of State programs funded under this part in accomplishing the work-related purposes of this part.".

SEC. 2014. REPORT ON COORDINATION.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit a report to the Congress describing common or conflicting data elements, definitions, performance measures, and reporting requirements in the Workforce Investment Act of 1998 and part A of title IV of the Social Security Act, and, to the degree each Secretary deems appropriate, at the discretion of either Secretary, any other program administered by the respective Secretary, to allow greater coordination between the welfare and workforce development systems.

SEC. 2015. FATHERHOOD PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Promotion and Support of Responsible Fatherhood and Healthy Marriage Act of 2005".

(b) FATHERHOOD PROGRAM.—

(1) IN GENERAL.—Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) is amended by adding at the end the following:

"SEC. 117. FATHERHOOD PROGRAM.

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

'PART C—FATHERHOOD PROGRAM

'SEC. 441. FINDINGS AND PURPOSES.

'(a) FINDINGS.—The Congress finds that there is substantial evidence strongly indicating the urgent need to promote and support involved, committed, and responsible fatherhood, and to encourage and support healthy marriages between parents raising children, including data demonstrating the following:

'(1) In approximately 84 percent of cases where a parent is absent, that parent is the father.

'(2) If current trends continue, half of all children born today will live apart from one of their parents, usually their father, at some point before they turn 18.

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

'(4) Committed and responsible fathering during infancy and early childhood contributes to the development of emotional security, curiosity, and math and verbal skills.

'(5) An estimated 19,400,000 children (27 percent) live apart from their biological father.

'(6) Forty percent of children under age 18 not living with their biological father had not seen their

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

'(b) PURPOSES.—The purposes of this part are:

'(1) To provide for projects and activities by public entities and by nonprofit community entities, including religious organizations, designed to test promising approaches to accomplishing the following objectives:

'(A) Promoting responsible, caring, and effective parenting through counseling, mentoring, and parenting education, dissemination of educational materials and information on parenting skills, encouragement of positive father involvement, including the positive involvement of nonresident fathers, and other methods.

'(B) Enhancing the abilities and commitment of unemployed or low-income fathers to provide material support for their families and to avoid or leave welfare programs by assisting them to take full advantage of education, job training, and job search programs, to improve work habits and work skills, to secure career advancement by activities such as outreach and information dissemination, coordination, as appropriate, with employment services and job train-

ing programs, including the One-Stop delivery system established under title I of the Workforce Investment Act of 1998, encouragement and support of timely payment of current child support and regular payment toward past due child support obligations in appropriate cases, and other methods.

'(C) Improving fathers' ability to effectively manage family business affairs by means such as education, counseling, and mentoring in matters including household management, budgeting, banking, and handling of financial transactions, time management, and home maintenance.

'(D) Encouraging and supporting healthy marriages and married fatherhood through such activities as premarital education, including the use of premarital inventories, marriage preparation programs, skills-based marriage education programs, marital therapy, couples counseling, divorce education and reduction programs, divorce mediation and counseling, relationship skills enhancement programs, including those designed to reduce child abuse and domestic violence, and dissemination of information about

the benefits of marriage for both parents and children.

'(2) Through the projects and activities described in paragraph (1), to improve outcomes for children with respect to measures such as increased family income and economic security, improved school performance, better health, improved emotional and behavioral stability and social adjustment, and reduced risk of delinquency, crime, substance abuse, child abuse and neglect, teen sexual activity, and teen suicide.

'(3) To evaluate the effectiveness of various approaches and to disseminate findings concerning outcomes and other information in order to encourage and facilitate the replication of effective approaches to accomplishing these objectives.

'SEC. 442. DEFINITIONS.

'In this part, the terms "Indian tribe" and "tribal organization" have the meanings given them in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

'SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.

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

to Indian tribes and tribal organizations, for demonstration service projects and activities designed to test the effectiveness of various approaches to accomplish the objectives specified in section 441(b)(1).

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

'(1) PROJECT DESCRIPTION.—A statement including—

'(A) a description of the project and how it will be carried out, including the geographical area to be covered and the number and characteristics of clients to be served, and how it will address each of the 4 objectives specified in section 441(b)(1); and

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

'(2) EXPERIENCE AND QUALIFICATIONS.—A demonstration of ability to carry out the project, by means such as demonstration of experience in success-

fully carrying out projects of similar design and scope, and such other information as the Secretary may find necessary to demonstrate the entity's capacity to carry out the project, including the entity's ability to provide the non-Federal share of project resources.

'(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

'(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about diseases and conditions transmitted through substance abuse and sexual contact, including HIV/AIDS, and to coordinate with providers of services addressing such problems, as appropriate.

'(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appro-

priate, with State and local entities responsible for the programs under parts A, B, and D of this title, including programs under title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

'(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

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

'(8) COOPERATION WITH SECRETARY'S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary's evaluation of projects assisted under this section, by means including random assignment of clients to service recipient and control groups, if determined by the Secretary to be appropriate, and affording the Secretary access to the

project and to project-related records and documents, staff, and clients.

'(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE GRANTS.—In order to be eligible for a grant under this section in an amount under $25,000 per fiscal year, an entity shall submit an application to the Secretary containing the following:

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

'(2) QUALIFICATIONS.—Such information as the Secretary may require as to the capacity of the entity to carry out the project, including any previous experience with similar activities.

'(3) COORDINATION WITH RELATED PROGRAMS.—As required by the Secretary in appropriate cases, an undertaking to coordinate and cooperate with State and local entities responsible for specific programs relating to the objectives of the project including, as appropriate, jobs programs and programs serving children and families.

'(4) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

'(5) COOPERATION WITH SECRETARY'S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary's evaluation of projects assisted under this section, by means including affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(d) CONSIDERATIONS IN AWARDING GRANTS.—

'(1) DIVERSITY OF PROJECTS.—In awarding grants under this section, the Secretary shall seek to achieve a balance among entities of differing sizes, entities in differing geographic areas, entities in urban and in rural areas, and entities employing differing methods of achieving the purposes of this section, including working with the State agency responsible for the administration of part D to help fathers satisfy child support arrearage obligations.

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

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

'(e) FEDERAL SHARE.—

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

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

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

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

'SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION PROJECTS.

'(a) IN GENERAL.—The Secretary may make grants under this section for fiscal years 2006 through 2010 to eligible entities (as specified in subsection (b)) for 2 multicity, multistate projects demonstrating approaches to achieving

the objectives specified in section 441(b)(1). One of the projects shall test the use of married couples to deliver program services.

'(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section must be a national nonprofit fatherhood promotion organization that meets the following requirements:

'(1) EXPERIENCE WITH FATHERHOOD PROGRAMS.—The organization must have substantial experience in designing and successfully conducting programs that meet the purposes described in section 441.

'(2) EXPERIENCE WITH MULTICITY, MULTISTATE PROGRAMS AND GOVERNMENT COORDINATION.—The organization must have experience in simultaneously conducting such programs in more than 1 major metropolitan area in more than 1 State and in coordinating such programs, where appropriate, with State and local government agencies and private, nonprofit agencies (including community-based and religious organizations), including State or local agencies responsible for child support enforcement and workforce development.

'(c) APPLICATION REQUIREMENTS.—In order to be eligible for a grant under this section, an entity must submit to the Secretary an application that includes the following:

'(1) QUALIFICATIONS.—

'(A) ELIGIBLE ENTITY.—A demonstration that the entity meets the requirements of subsection (b).

'(B) OTHER.—Such other information as the Secretary may find necessary to demonstrate the entity's capacity to carry out the project, including the entity's ability to provide the non-Federal share of project resources.

'(2) PROJECT DESCRIPTION.—A description of and commitments concerning the project design, including the following:

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

'(i) provide for the project to be conducted in at least 3 major metropolitan areas;

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

'(iii) demonstrate that there is a sufficient number of potential clients to allow for the random selection of individuals to participate in the project and for comparisons with appropriate control groups composed of individuals who have not participated in such projects; and

'(iv) demonstrate that the project is designed to direct a majority of project resources to activities serving low-income fathers (but the project need not make services available on a means-tested basis).

'(B) OVERSIGHT, EVALUATION, AND ADJUSTMENT COMPONENT.—An agreement that the entity—

'(i) in consultation with the evaluator selected pursuant to section 446, and as required by the Secretary, will modify the project design, initially and (if necessary) subsequently throughout the duration of the project, in order to facilitate ongoing and final oversight and evaluation of project operation and outcomes (by means including, to the maximum extent feasible, random assignment of clients to service recipient and

control groups), and to provide for mid-course adjustments in project design indicated by interim evaluations;

'(ii) will submit to the Secretary revised descriptions of the project design as modified in accordance with clause (i); and

'(iii) will cooperate fully with the Secretary's ongoing oversight and ongoing and final evaluation of the project, by means including affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

'(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about

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

'(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for the programs funded under parts A, B, and D of this title, programs under title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

'(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits (in addition to those required under the preceding provisions of paragraph (2)) as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

'(d) FEDERAL SHARE.—

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

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

'SEC. 445. ECONOMIC INCENTIVE DEMONSTRATION PROJECTS.

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

'(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section must be a national nonprofit fatherhood promotion organization that meets the following requirements:

'(1) EXPERIENCE WITH FATHERHOOD PROGRAMS.—The organization must have substantial experience in designing and successfully conducting programs that meet the purposes described in section 441.

'(2) EXPERIENCE ADDRESSING MULTIPLE BARRIERS TO EMPLOYMENT.—The organization must have experience in conducting such programs and in coordinating such programs, where appropriate, with State and local government agencies and private, nonprofit agencies (including community-based and religious organizations), including State or local agencies responsible for child support enforcement and workforce development.

'(3) NEGOTIATED AGREEMENTS WITH STATE AND LOCAL AGENCIES FOR APPROPRIATE POLICY CHANGES TO ADDRESS BARRIERS TO EMPLOYMENT.—The organization must have agreements in place with State and local government agencies, including State or local agencies responsible for child support enforcement and workforce development, to incorporate appropriate policy changes proposed to address barriers to employment.

'(c) APPLICATION REQUIREMENTS.—In order to be eligible for a grant under this section, an entity must submit to the Secretary an application that includes the following:

'(1) QUALIFICATIONS.—

'(A) ELIGIBLE ENTITY.—A demonstration that the entity meets the requirements of subsection (b).

'(B) OTHER.—Such other information as the Secretary may find necessary to demonstrate the entity's capacity to carry out the project, including the entity's ability to provide the non-Federal share of project resources.

'(2) PROJECT DESCRIPTION.—A description of and commitments concerning the project design, including the following:

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

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

'(ii) state how the project will address employment barriers across programs (such as child support, criminal justice, and workforce development programs) using both

sanctions and compliance along with monetary incentives for obtaining employment, with earning subsidies contingent upon work and child support payment;

'(iii) demonstrate that there is a sufficient number of potential clients to allow for the random selection of individuals to participate in the project and for comparisons with appropriate control groups composed of individuals who have not participated in such projects; and

'(iv) demonstrate that the project is designed to direct a majority of project resources to activities serving low-income fathers (but the project need not make services available on a means-tested basis).

'(B) OVERSIGHT, EVALUATION, AND ADJUSTMENT COMPONENT.—An agreement that the entity—

'(i) in consultation with the evaluator selected pursuant to section 446, and as required by the Secretary, will modify the project design, initially and (if necessary) subsequently throughout the duration of the project, in order to facilitate ongoing and

final oversight and evaluation of project operation and outcomes (by means including, to the maximum extent feasible, random assignment of clients to service recipient and control groups), and to provide for mid-course adjustments in project design indicated by interim evaluations;

'(ii) will submit to the Secretary revised descriptions of the project design as modified in accordance with clause (i); and

'(iii) will cooperate fully with the Secretary's ongoing oversight and ongoing and final evaluation of the project, by means including affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

'(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commit-

ment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about diseases and conditions transmitted through substance abuse and sexual contact, including HIV/AIDS, and to coordinate with providers of services addressing such problems, as appropriate.

'(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for the programs funded under parts A, B, and D of this title, programs under title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

'(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits (in addition to those required under the preceding provisions of paragraph (2)) as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

'(d) FEDERAL SHARE.—

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

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

'SEC. 446. EVALUATION.

'(a) IN GENERAL.—The Secretary, directly or by contract or cooperative agreement, shall evaluate the effectiveness of service projects funded under sections 443 and 444 from the standpoint of the purposes specified in section 441(b)(1).

'(b) EVALUATION METHODOLOGY.—Evaluations under this section shall—

'(1) include, to the maximum extent feasible, random assignment of clients to service delivery and control groups and other appropriate comparisons of groups of individuals receiving and not receiving services;

'(2) describe and measure the effectiveness of the projects in achieving their specific project goals; and

'(3) describe and assess, as appropriate, the impact of such projects on marriage, parenting, domestic violence, child abuse and neglect, money management, employment and earnings, payment of child support, and child well-being, health, and education.

'(c) EVALUATION REPORTS.—The Secretary shall publish the following reports on the results of the evaluation:

'(1) An implementation evaluation report covering the first 24 months of the activities under this part to be completed by 36 months after initiation of such activities.

'(2) A final report on the evaluation to be completed by September 30, 2013.

'SEC. 447. PROJECTS OF NATIONAL SIGNIFICANCE.

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

'(1) COLLECTION AND DISSEMINATION OF INFORMATION.—Assisting States, communities, and private entities, including religious organizations, in efforts to promote and support marriage and responsible fatherhood by collecting, evaluating, developing, and making available (through the Internet and by other means) to all interested parties information regarding

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

'(2) MEDIA CAMPAIGN.—Developing, promoting, and distributing to interested States, local governments, public agencies, and private nonprofit organizations, including charitable and religious organizations, a media campaign that promotes and encourages involved, committed, and responsible fatherhood and married fatherhood.

'(3) TECHNICAL ASSISTANCE.—Providing technical assistance, including consultation and training, to public and private entities, including community organizations and faith-based organizations, in the implementation of local fatherhood promotion programs.

'(4) RESEARCH.—Conducting research related to the purposes of this part.

'SEC. 448. NONDISCRIMINATION.

'The projects and activities assisted under this part shall be available on the same basis to all fathers and expectant fathers able to benefit from such projects and activities, including married and unmarried fathers and custodial and noncustodial fathers, with particular attention to low-income fathers, and to mothers and expectant mothers on the same basis as to fathers.

'SEC. 449. AUTHORIZATION OF APPROPRIATIONS; RESERVATION FOR CERTAIN PURPOSE.

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

'(b) RESERVATION.—Of the amount appropriated under this section for each fiscal year, not more than 35 percent shall be available for the costs of the multicity, multicounty, multistate demonstration projects under section 444, the economic incentives demonstration projects under section 445, evaluations under section 446, and projects of national significance under section 447, with not less than $5,000,000 allocated to the economic incentives demonstration project under section 445.'.

"(b) INAPPLICABILITY OF EFFECTIVE DATE PROVISIONS.—Section 116 shall not apply to the amendment made by subsection (a) of this section.".

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

"Sec. 117. Fatherhood program.".

SEC. 2016. STATE OPTION TO MAKE TANF PROGRAMS MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAINING CENTERS.

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

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

SEC. 2017. SENSE OF THE CONGRESS.

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

SEC. 2018. PROHIBITION ON OFFSHORING.

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

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

"(A) to enter into a contract with an entity that, directly or through a subcontractor, provides any service, activity or function described under this part at a location outside the United States; or

"(B) to reduce employment in the United States through use of 1 or more employees outside the United States.".

PART 3—CHILD CARE

SEC. 2021. SHORT TITLE.

This part may be cited as the "Caring for Children Act of 2005".

SEC. 2022. GOALS.

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

(1) in paragraph (3) by striking "encourage" and inserting "assist",

(2) by amending paragraph (4) to read as follows:

"(4) to assist States to provide child care to low-income parents;",

(3) by redesignating paragraph (5) as paragraph (7), and

(4) by inserting after paragraph (4) the following:

"(5) to encourage States to improve the quality of child care available to families;

"(6) to promote school readiness by encouraging the exposure of young children in child care to nurturing environments and developmentally-appropriate activities, including activities to foster early cognitive and literacy development; and".

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

SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.

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

(1) by striking "is" and inserting "are", and

(2) by striking "$1,000,000,000 for each of the fiscal years 1996 through 2002" and inserting "$2,300,000,000 for fiscal year 2006, $2,500,000,000 for fiscal year 2007, $2,700,000,000 for fiscal year 2008, $2,900,000,000 for fiscal year 2009, and $3,100,000,000 for fiscal year 2010".

SEC. 2024. APPLICATION AND PLAN.

Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858C(c)(2)) is amended—

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

"(D) CONSUMER AND CHILD CARE PROVIDER EDUCATION INFORMATION.—

"(i) CERTIFICATION.—Certify that the State will collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

"(I) the promotion of informed child care choices, including information about the quality and availability of child care services;

"(II) research and best practices on children's development, including early cognitive development;

"(III) the availability of assistance to obtain child care services; and

"(IV) other programs for which families that receive child care services

for which financial assistance is provided under this subchapter may be eligible, including the food stamp program, the WIC program under section 17 of the Child Nutrition Act of 1966, the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act, Head Start programs, Early Head Start programs, services and activities under section 619 and part C of the Individuals with Disabilities Education Act, and the medicaid and SCHIP programs under titles XIX and XXI of the Social Security Act.

"(ii) INFORMATION.—Information provided to parents shall be in plain language and, to the extent practicable, be in a language that such parents can understand.", and

(2) by inserting after subparagraph (H) the following:

"(I) COORDINATION WITH OTHER EARLY CHILD CARE SERVICES AND EARLY CHILDHOOD EDUCATION PROGRAMS.—Demonstrate how the

State is coordinating child care services provided under this subchapter with Head Start programs, Early Head Start programs, Early Reading First, Even Start, Ready-To-Learn Television, services and activities under section 619 and part C of the Individuals with Disabilities Education Act, State pre-kindergarten programs, and other early childhood education programs to expand accessibility to and continuity of care and early education consistent with the goals of this Act, without displacing services provided by the current early care and education delivery system.

"(J) PUBLIC-PRIVATE PARTNERSHIPS.—Demonstrate how the State encourages partnerships with private and other public entities to leverage existing service delivery systems of early childhood education and increase the supply and quality of child care services.

"(K) CHILD CARE SERVICE QUALITY.—

"(i) CERTIFICATION.—For each fiscal year after fiscal year 2006, certify that during the then preceding fiscal year the State was in compliance with section 658G and describe how funds were used to comply

with such section during such preceding fiscal year.

"(ii) STRATEGY.—For each fiscal year after fiscal year 2006, contain an outline of the strategy the State will implement during such fiscal year for which the State plan is submitted, to address the quality of child care services in the State available from eligible child care providers, and include in such strategy—

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

"(II) a description of measures for evaluating the quality improvements generated by the activities listed in each of such paragraphs that the State will use to evaluate its progress in improving the quality of such child care services;

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

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

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require that the State apply measures for evaluating quality to specific types of child care providers.

"(L) ACCESS TO CARE FOR CERTAIN POPULATIONS.—Demonstrate how the State is addressing the child care needs of parents eligible for child care services for which financial assistance is provided under this subchapter who have children with special needs, are limited English proficient, work nontraditional hours, or require child care services for infants or toddlers.".

SEC. 2025. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

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

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE SERVICES.

"A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 6 percent of the amount of such funds for activities provided through resource and referral services and other means, that are designed to improve the quality of child care services in the State available from eligible child care providers. Such activities include—

"(1) programs that provide training, education, and other professional development activities to enhance the skills of the child care workforce, including training opportunities for caregivers in informal care settings;

"(2) activities within child care settings to enhance early learning for young children, to promote early literacy, and to foster school readiness;

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

"(4) other activities deemed by the State to improve the quality of child care services provided in such State.".

SEC. 2026. REPORTS AND AUDITS.

Section 658K(a)(1)(B)(iii) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)(1)(B)(iii)) is amended by inserting "ethnicity, primary language," after "race,".

SEC. 2027. REPORT BY SECRETARY.

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

"SEC. 658L. REPORT BY SECRETARY.

"(a) REPORT REQUIRED.—Not later than October 1, 2007, and biennially thereafter, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the following:

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

"(2) Aggregated statistics on the supply of, demand for, and quality of child care, early education, and non-school-hours programs.

"(3) An assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the pub-

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

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

SEC. 2028. DEFINITIONS.

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

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

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following:

"(9) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' means with respect to an individual, that such individual—

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

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

"(II) comes from an environment in which a language that is not English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory, has a native language that is not English, and comes from an environment in which a language that is not English is dominant; and

"(B) has difficultly in speaking or understanding the English language to an extent that may be sufficient to deny such individual—

"(i) the ability to successfully achieve in classrooms in which the language of instruction is English; or

"(ii) the opportunity to fully participate in society.".

SEC. 2029. WAIVER AUTHORITY TO EXPAND THE AVAILABILITY OF SERVICES UNDER CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

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

be appropriate, the Secretary of Health and Human Service may waive or modify, for any affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, provisions of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(1) relating to Federal income limitations on eligibility to receive child care services for which assistance is provided under such Act,

(2) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act,

(3) relating to limitations on the use of funds under section 658G of the Child Care and Development Block Grant Act of 1990, and

(4) preventing children designated as evacuees from receiving priority for child care services provided under such Act, except that children residing in a State and currently receiving services should not lose such services in order to accommodate evacuee children,

for purposes of easing State fiscal burdens and providing child care services to children orphaned, or of families displaced, as a result of a Gulf hurricane disaster.

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

(1) AFFECTED STATE.—The term "affected State" means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

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

(3) INDIVIDUAL ADVERSELY AFFECTED BY A GULF HURRICANE DISASTER.—The term "individual adversely affected by a Gulf hurricane disaster" means an individual who, on August 29, 2005, was living, working, or attending school in an area in which the President has declared to exist a Gulf hurricane disaster.

PART 4—STATE AND LOCAL FLEXIBILITY

SEC. 2041. PROGRAM COORDINATION DEMONSTRATION PROJECTS.

(a) PURPOSE.—The purpose of this section is to establish a program of demonstration projects in a State or portion of a State to coordinate multiple public assistance, workforce development, and other programs, for the purpose of supporting working individuals and families, helping families escape welfare dependency, promoting child well-

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

(b) DEFINITIONS.—In this section:

(1) ADMINISTERING SECRETARY.—The term "administering Secretary" means, with respect to a qualified program, the head of the Federal agency responsible for administering the program.

(2) QUALIFIED PROGRAM.—The term "qualified program" means—

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

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

(C) activities funded under the Wagner-Peyser Act;

(D) activities funded under the Adult Education and Family Literacy Act; or

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

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

onstration project under this section shall (or, if the project is proposed to include qualified programs administered by 2 or more such entities, the heads of the administering entities (each of whom shall be considered an applicant for purposes of this section) shall jointly) submit to the administering Secretary of each such program an application that contains the following:

(1) PROGRAMS INCLUDED.—A statement identifying each qualified program to be included in the project, and describing how the purposes of each such program will be achieved by the project.

(2) POPULATION SERVED.—A statement identifying the population to be served by the project and specifying the eligibility criteria to be used.

(3) DESCRIPTION AND JUSTIFICATION.—A detailed description of the project, including—

(A) a description of how the project is expected to improve or enhance achievement of the purposes of the programs to be included in the project, from the standpoint of quality, of cost-effectiveness, or of both; and

(B) a description of the performance objectives for the project, including any proposed modifications to the performance measures and reporting requirements used in the programs.

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

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

(6) EVALUATION AND REPORTS.—An assurance that the applicant will conduct ongoing and final evaluations of the project, and make interim and final reports to the administering Secretary, at such times and in such manner as the administering Secretary may require.

(7) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the administering Secretary may require.

(d) APPROVAL OF APPLICATIONS.—

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

(c) may approve the application and, except as provided in paragraph (2), waive any requirement applicable to the program, to the extent consistent with this section and necessary and appropriate for the conduct of the demonstration project proposed in the application, if the administering Secretary determines that the project—

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

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

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

(2) PROVISIONS EXCLUDED FROM WAIVER AUTHORITY.—A waiver shall not be granted under paragraph (1)—

(A) with respect to any provision of law relating to—

(i) civil rights or prohibition of discrimination;

(ii) purposes or goals of any program;

(iii) maintenance of effort requirements;

(iv) health or safety;

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

(vi) environmental protection;

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

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

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

(E) if the waiver would waive any funding restriction or limitation provided in an appropriations Act, or would have the effect of transferring appropriated funds from 1 appropriations account to another; or

(F) except as otherwise provided by statute, if the waiver would waive any funding restriction applicable to a program authorized under an Act which is not an appropriations Act (but not including program requirements such as ap-

plication procedures, performance standards, reporting requirements, or eligibility standards), or would have the effect of transferring funds from a program for which there is direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to another program.

(3) AGREEMENT OF EACH ADMINISTERING SECRETARY REQUIRED.—

(A) IN GENERAL.—An applicant may not conduct a demonstration project under this section unless each administering Secretary with respect to any program proposed to be included in the project has approved the application to conduct the project.

(B) AGREEMENT WITH RESPECT TO FUNDING AND IMPLEMENTATION.—Before approving an application to conduct a demonstration project under this section, an administering Secretary shall have in place an agreement with the applicant with respect to the payment of funds and responsibilities required of the administering Secretary with respect to the project.

(4) COST-NEUTRALITY REQUIREMENT.—

(A) GENERAL RULE.—Notwithstanding any other provision of law (except subparagraph (B)), the total of the amounts that may be paid by the Federal Government for a fiscal year with respect to the programs in the State in which an entity conducting a demonstration project under this section is located that are affected by the project shall not exceed the estimated total amount that the Federal Government would have paid for the fiscal year with respect to the programs if the project had not been conducted, as determined by the Director of the Office of Management and Budget.

(B) SPECIAL RULE.—If an applicant submits to the Director of the Office of Management and Budget a request to apply the rules of this subparagraph to the programs in the State in which the applicant is located that are affected by a demonstration project proposed in an application submitted by the applicant pursuant to this section, during such period of not more than 5 consecutive fiscal years in which the project is in effect, and the Director determines, on the basis of supporting information provided by the applicant, to grant the request, then, notwith-

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

(5) 90-DAY APPROVAL DEADLINE.—

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

(i) the administering Secretary is deemed to have approved the application for such period as is requested in the application, except to the extent inconsistent with subsection (e); and

(ii) any waiver requested in the application which applies to a qualified program that is identified in the application and is administered by the administering Secretary is deemed to be granted, except to the extent inconsistent with paragraph (2) or (4) of this subsection.

(B) DEADLINE EXTENDED IF ADDITIONAL INFORMATION IS SOUGHT.—The 90-day period referred to in subparagraph (A) shall not include any period that begins with the date the Secretary requests the applicant to provide additional information with respect to the application and ends with the date the additional information is provided.

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

(f) REPORTS TO CONGRESS.—

(1) REPORT ON DISPOSITION OF APPLICATIONS.—Within 90 days after an administering Secretary receives an application submitted pursuant to this section, the administering Secretary shall submit to each Committee of the Congress which has jurisdiction over a qualified program identified in the application notice of the receipt, a description of the decision of the administering Secretary with respect to the application, and the reasons for approving or disapproving the application.

(2) REPORTS ON PROJECTS.—Each administering Secretary shall provide annually to the Con-

gress a report concerning demonstration projects approved under this section, including—

(A) the projects approved for each applicant;

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

(C) how well each project for which a waiver is granted is improving or enhancing program achievement from the standpoint of quality, cost-effectiveness, or both;

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

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

(F) to the extent the administering Secretary deems appropriate, recommendations for modification of programs based on outcomes of the projects.

PART 5—EFFECTIVE DATE

SEC. 2051. EFFECTIVE DATE.

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

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

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

Subtitle B—Higher Education

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Higher Education Budget Reconciliation Act of 2005".

PART 1—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

SEC. 2111. REFERENCES; EFFECTIVE DATE.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a sec-

tion or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

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

SEC. 2112. MODIFICATION OF 50/50 RULE.

Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amended—

(1) in subparagraph (A), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "courses by correspondence"; and

(2) in subparagraph (B), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "correspondence courses".

SEC. 2113. REAUTHORIZATION OF FEDERAL FAMILY EDUCATION LOAN PROGRAM.

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

(b) EXTENSION OF AUTHORITY.—

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

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

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

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

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

SEC. 2114. LOAN LIMITS.

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

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

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

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

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

"(ii) Loans made under this section shall, to the extent used to pay off the outstanding principal balance on loans made under this title, excluding capitalized interest, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428H(d), 455, and 464(a)(2)(B).".

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

SEC. 2115. INTEREST RATES AND SPECIAL ALLOWANCES.

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

(1) in subsection (k)—

(A) by striking ", AND BEFORE JULY 1, 2006" in the heading of such subsection; and

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

(2) by striking subsection (l); and

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

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

(1) in paragraph (6)—

(A) by striking ", AND BEFORE JULY 1, 2006" in the heading of such paragraph; and

(B) by striking ", and before July 1, 2006," each place it appears in subparagraphs (A), (B), and (C);

(2) by striking paragraph (7); and

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

(c) CONSOLIDATION LOAN INTEREST RATES.—

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

(A) in the heading of paragraph (4), by inserting "BEFORE JULY 1, 2006" after "LOANS";

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

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

"(5) CONSOLIDATION LOANS ON OR AFTER JULY 1, 2006.—

"(A) BORROWER ELECTION.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall, at the election of the borrower at the time of application for the loan, be either at the rate determined under subparagraph (B) or the rate determined under subparagraph (C).

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

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

"(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(C) FIXED RATE.—Except as provided in subparagraph (D), the rate determined under this subparagraph shall be determined for the duration of the term of the loan on the July 1 that is or precedes the date on which the application is received by an eligible lender, and shall be, for such duration, not more than—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to the June 1 immediately preceding such July 1; plus

"(ii) 3.3 percent,

except that such rate shall not exceed 8.25 percent.

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

"(i) by substituting '3.1 percent' for '2.3 percent';

"(ii) by substituting '4.1 percent' for '3.3 percent'; and

"(iii) by substituting '9.0 percent' for '8.25 percent'.".

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

(A) in the heading of subparagraph (D), by inserting "BEFORE JULY 1, 2006" after "LOANS"

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

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

"(E) CONSOLIDATION LOANS ON OR AFTER JULY 1, 2006.—

"(i) BORROWER ELECTION.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Consolidation Loan for which the application is received by the Secretary on or after July 1, 2006, the applicable rate of interest shall, at the election of the borrower at the time of application for the loan, be either at the rate determined under clause (ii) or the rate determined under clause (iii).

"(ii) VARIABLE RATE.—Except as provided in clause (iv), the rate determined

under this clause shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and, for such 12-month period, be equal to—

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

"(II) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(iii) FIXED RATE.—Except as provided in clause (iv), the rate determined under this clause shall be determined for the duration of the term of the loan on the July 1 that is or precedes the date on which the application is received by the Secretary, and shall be, for such duration, equal to—

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

"(II) 3.3 percent,

except that such rate shall not exceed 8.25 percent.

"(iv) CONSOLIDATION OF PLUS LOANS.—In the case of any such Federal Direct Consolidation Loan that is used to repay loans each of which was made under section 428B or was a Federal Direct PLUS Loan (or both), the rates determined under clauses (ii) and (iii) shall be determined—

"(I) by substituting '3.1 percent' for '2.3 percent';

"(II) by substituting '4.1 percent' for '3.3 percent'; and

"(III) by substituting '9.0 percent' for '8.25 percent'.".

(d) CONSOLIDATION LOAN CONFORMING AMENDMENT.—Section 428C(c)(1)(A)(ii) (20 U.S.C. 1078–3(c)(1)(A)(ii)) is amended by striking "section 427A(l)(3)" and inserting "section 427A(k)(5)".

(e) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES.—

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

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

"(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and for which the applicable interest rate is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'.";

(B) in clause (iii),

(i) by striking "or (l)(2)"; and

(ii) by striking ", subject to clause (v) of this subparagraph";

(C) in clause (iv)—

(i) by striking "or (l)(3)" and inserting "or (k)(5)"; and

(ii) by striking ", subject to clause (vi) of this subparagraph"; and

(D) by striking clauses (v), (vi), and (vii) and inserting the following:

"(v) RECAPTURE OF EXCESS INTEREST.—

"(I) EXCESS CREDITED.—With respect to a loan on which the applica-

ble interest rate is determined under section 427A(k) and for which the first disbursement of principal is made on or after July 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not in-

cluding unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), and (iv) in determining such sum.".

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

SEC. 2116. ADDITIONAL LOAN TERMS AND CONDITIONS.

(a) FEDERAL DEFAULT FEES.—

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

"(H) provides—

"(i) for loans for which the first disbursement of principal is made before July, 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

"(ii) for loans for which the first disbursement of principal is made on or after July 1, 2006, for the collection and deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of 1.0 percent of the principal amount of such loan, which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower prior to payment to the borrower, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;".

(2) UNSUBSIDIZED LOANS.—Section 428H(h) (20 U.S.C. 1078–8(h)) is amended by adding at the end the following new sentence: "Effective for loans for which the first disbursement of principal is made on or after July 1, 2006, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall collect and deposit into the Federal Student Loan Reserve Fund under section 422A a Federal default fee of 1.0 percent of the principal amount of the loan, obtained by deduction proportionately from each installment payment of the proceeds of the loan to the borrower. The Federal default fee shall not be used for incentive payments to lenders.".

(3) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

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

"(C) the Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428H(h).".

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

(1) in clause (i), by inserting "(including an eligible foreign institution, except as provided in clause (ii))" after "institution"; and

(2) in clause (ii), by striking "or at an eligible foreign institution".

(c) REPAYMENT PLANS.—

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

(A) by inserting before the semicolon at the end of clause (ii) the following: ", and the Secretary may not restrict the proportions or ratios by which such payments may be graduated with the informed agreement of the borrower";

(B) by striking "and" at the end of clause (iii);

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

(D) by inserting after clause (iii) the following new clause:

"(iv) a delayed repayment plan under which the borrower makes scheduled payments for not more than 2 years that are annually not less than the amount of interest due or $600, whichever is greater, and then makes payments in accordance with clause (i), (ii), or (iii); and".

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

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

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

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

"(B) a graduated repayment plan, consistent with section 428(b)(9)(A)(ii);

"(C) an extended repayment plan, consistent with section 428(b)(9)(A)(v), except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

"(D) a delayed repayment plan under which the borrower makes scheduled payments

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

(d) ORIGINATION FEES.—

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

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

"(2) AMOUNT OF ORIGINATION FEES.—

"(A) IN GENERAL.—"; and

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

"(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 428C and 439(o))—

"(i) by substituting '2.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

"(ii) by substituting '1.5 percent' for '3.0 percent' with respect to loans for which

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

"(iii) by substituting '1.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(iv) by substituting '0.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(v) by substituting '0.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

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

"(c) LOAN FEE.—

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

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

"(A) by substituting 'not more or less than 3.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

"(B) by substituting 'not more or less than 2.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(C) by substituting 'not more or less than 2.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(D) by substituting 'not more or less than 1.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

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

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

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

"(B) from providing any repayment incentive before the borrower enters repayment.".

(e) CONSOLIDATION LOAN OFFSET CHARGE.—

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

(A) in paragraph (1)(A), by inserting after "paragraph (2) of this subsection" the following: "and the amount the lender is authorized to collect as a consolidation loan offset charge in accordance with paragraph (9) of this subsection";

(B) in paragraph (1)(B)—

(i) by inserting "and the consolidation loan offset charge" after "origination fee"; and

(ii) by inserting "and consolidation loan offset charges" after "origination fees";

(C) in paragraphs (3) and (4), by inserting "and consolidation loan offset charge" after "origination fee" each place it appears;

(D) in paragraph (5)—

(i) by inserting "or consolidation loan offset charge" after "origination fee"; and

(ii) by inserting "or consolidation loan offset charges" after "origination fees";

(E) in paragraph (7)—

(i) by inserting "and consolidation loan offset charges" after "origination fees"; and

(ii) by striking "428A or"; and

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

"(9) CONSOLIDATION LOAN OFFSET CHARGE.—For any loan under section 428C, the lender is authorized to collect a consolidation loan offset charge in an amount not to exceed 1.0 percent of the principal amount of the loan. Such amount may be added to the principal amount of the loan for repayment by the borrower.".

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

"(4) CONSOLIDATION LOAN OFFSET CHARGES.—For any Federal Direct Consolidation Loan, the Secretary shall collect a consolidation loan offset charge in an amount not more or less than 1.0 percent of the principal amount of the loan. Such amount may be added to the principal amount of the loan for repayment by the borrower. Such amount is not subject to the requirements of paragraph (3) of this subsection.".

SEC. 2117. CONSOLIDATION LOAN CHANGES.

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

(1) in subsection (a)(3)(B)(i)—

(A) by inserting "or under section 455(g)" after "under this section" both places it appears;

(B) by inserting "under both sections" after "terminates"

(C) by striking "and" at the end of subclause (III);

(D) by striking the period at the end of subclause (IV) and inserting "; and"; and

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

"(V) an individual may obtain a subsequent consolidation loan under section 455(g) only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."; and

(2) in subsection (b)(5), by striking the first sentence and inserting the following: "In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to it by an eligible borrower under this section, or denies an application submitted to it by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default.".

(b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

(1) DEFINITION OF REPAYMENT PERIOD.—Section 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is amended by striking "shall begin—" and all that follows through "earlier date." and inserting the fol-

lowing: "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

(2) CONFORMING CHANGE TO ELIGIBLE BORROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I) (20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by inserting "as determined under section 428(b)(7)(A)" after "repayment status".

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

(1) by striking "SPECIAL RULE.—" and inserting "SPECIAL RULES.—(A)"; and

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

"(B) For consolidation loans based on applications received on or after July 1, 2006, if 90 percent or more of the total principal and accrued unpaid interest outstanding on the loans held, directly or indirectly, by any holder is comprised of principal and accrued unpaid interest owed on consolidation loans, the rebate described in paragraph (1) for such holder shall be equal to 1.30 percent of the principal plus accrued unpaid interest on such loans.".

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

(1) in subsection (a)(3), by striking subparagraph (C); and

(2) in subsection (b)(1)—

(A) by striking everything after "under this section" the first place it appears in subparagraph (A) and inserting the following: "and that, if all the borrower's loans under this part are held by a single holder, the borrower has notified such holder that the borrower is seeking to obtain a consolidation loan under this section;";

(B) by striking "(i) which" and all that follows through "and (ii)" in subparagraph (C);

(C) by striking "and" at the end of subparagraph (E);

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

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

"(F) that the lender of the consolidation loan shall, upon application for such loan, provide the borrower with a clear and conspicuous notice of at least the following information:

"(i) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

"(ii) the effects of consolidation on a borrower's underlying loan benefits, including loan forgiveness, cancellation, deferment, and reduced interest rates on those underlying loans;

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

"(iv) that borrower benefit programs may vary among different loan holders, and a description of how the borrower benefits may vary among different loan holders;

"(v) the tax benefits for which borrowers may be eligible;

"(vi) the consequences of default; and

"(vii) that by making the application the applicant is not obligated to agree to take the consolidation loan; and".

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

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

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

(1) in subsection (a)(1) by inserting "428C," after "428B,";

(2) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (B);

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

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

"(C) section 428C shall be known as 'Federal Direct Consolidation Loans'; and "; and

(3) in subsection (g)—

(A) by striking the second sentence; and

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

SEC. 2118. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.

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

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

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

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

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

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

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

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

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

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

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

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

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

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

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

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

"(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

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

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

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

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

"SEC. 428K. LOAN FORGIVENESS FOR SERVICE IN AREAS OF NATIONAL NEED.

"(a) PURPOSES.—The purposes of this section are—

"(1) to encourage highly trained individuals to enter and continue in service in areas of national need; and

"(2) to reduce the burden of student debt for Americans who dedicate their careers to service in areas of national need.

"(b) PROGRAM AUTHORIZED.—

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

loans made under section 428B and 428C and comparable loans made under part D), for any new borrower after the date of enactment of the Higher Education Budget Reconciliation Act of 2005, who—

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

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

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

"(3) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(c) AREAS OF NATIONAL NEED.—

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

"(A) EARLY CHILDHOOD EDUCATORS.—An individual who is employed as an early childhood educator in an eligible preschool program

or child care facility in a low-income community, and who is involved directly in the care, development and education of infants, toddlers, or young children through age five.

"(B) NURSES.—An individual who is employed—

"(i) as a nurse in a clinical setting; or

"(ii) as a member of the nursing faculty at an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

"(C) FOREIGN LANGUAGE SPECIALISTS.—An individual who has obtained a baccalaureate degree in a critical foreign language and is employed—

"(i) in an elementary or secondary school as a teacher of a critical foreign language; or

"(ii) in an agency of the United States Government in a position that regularly requires the use of such critical foreign language.

"(D) LIBRARIANS.—An individual who is employed as a librarian in—

"(i) a public library that serves a geographic area within which the public schools have a combined average of 30 percent or more of their total student enrollments composed of children counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965; or

"(ii) an elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school.

"(E) HIGHLY QUALIFIED TEACHERS: BILINGUAL EDUCATION AND LOW-INCOME COMMUNITIES.—An individual who—

"(i) is highly qualified as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965; and

"(ii)(I) is employed as a teacher of bilingual education; or

"(II) is employed as a teacher for service in a public or nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 exceeds 40

percent of the total enrollment of that school.

"(F) FIRST RESPONDERS IN LOW-INCOME COMMUNITIES.—An individual who—

"(i) is employed as a firefighter, police officer, or emergency medical technician; and

"(ii) serves as such in a low-income community.

"(G) CHILD WELFARE WORKERS.—An individual who—

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

"(ii) is employed in public or private child welfare services.

"(H) SPEECH-LANGUAGE PATHOLOGISTS.—An individual who is a speech-language pathologist, who is employed in an eligible preschool program or an elementary or secondary school, and who has, at a minimum, a graduate degree in speech-language pathology, or communication sciences and disorders.

"(I) ADDITIONAL AREAS OF NATIONAL NEED.—An individual who is employed in an

area designated by the Secretary under paragraph (2) and has completed a baccalaureate or advanced degree related to such area.

"(2) DESIGNATION OF ADDITIONAL AREAS OF NATIONAL NEED.—After consultation with appropriate Federal, State, and community-based agencies and organizations, the Secretary shall designate additional areas of national need in which an individual may be employed full-time to be eligible for loan repayment under this section. In making such designations, the Secretary shall take into account the extent to which—

"(A) the national interest in the area is compelling;

"(B) the area suffers from a critical lack of qualified personnel; and

"(C) other Federal programs support the area concerned.

"(d) QUALIFIED LOAN AMOUNT.—Subject to the availability of appropriations, the Secretary shall repay not more than $5,000 in the aggregate of the loan obligation on a loan made under section 428 or 428H that is outstanding after the completion of the fifth consecutive school, academic, or calendar year, as appropriate, described in subsection (b)(1).

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

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

"(g) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may receive a reduction of loan obligations under both this section and section 428J or 460.

"(h) DEFINITIONS.—In this section

"(1) CHILD CARE FACILITY.—The term 'child care facility' means a facility, including a home, that—

"(A) provides for the education and care of children from birth through age 5; and

"(B) meets any applicable State or local government licensing, certification, approval, or registration requirements.

"(2) CRITICAL FOREIGN LANGUAGE.—The term 'critical foreign language' includes the languages of Arabic, Korean, Japanese, Chinese, Pashto, Persian-Farsi, Serbian-Croatian, Russian, Portuguese, and any other language identified by the Secretary of

Education, in consultation with the Defense Language Institute, the Foreign Service Institute, and the National Security Education Program, as a critical foreign language need.

"(3) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means an early childhood educator employed in an eligible preschool program who has completed a baccalaureate or advanced degree in early childhood development, early childhood education, or in a field related to early childhood education.

"(4) ELIGIBLE PRESCHOOL PROGRAM.—The term 'eligible preschool program' means a program that provides for the care, development, and education of infants, toddlers, or young children through age 5, meets any applicable State or local government licensing, certification, approval, and registration requirements, and is operated by—

"(A) a public or private school that may be supported, sponsored, supervised, or administered by a local educational agency;

"(B) a Head Start agency serving as a grantee designated under the Head Start Act (42 U.S.C. 9831 et seq.);

"(C) a nonprofit or community based organization; or

"(D) a child care program, including a home.

"(5) LOW-INCOME COMMUNITY.—In this subsection, the term 'low-income community' means a community in which 70 percent of households earn less than 85 percent of the State median household income.

"(6) NURSE.—The term 'nurse' means a nurse who meets all of the following:

"(A) The nurse graduated from—

"(i) an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296));

"(ii) a nursing center; or

"(iii) an academic health center that provides nurse training.

"(B) The nurse holds a valid and unrestricted license to practice nursing in the State in which the nurse practices in a clinical setting.

"(C) The nurse holds one or more of the following:

"(i) A graduate degree in nursing, or an equivalent degree.

"(ii) A nursing degree from a collegiate school of nursing (as defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

"(iii) A nursing degree from an associate degree school of nursing (as defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

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

"(7) SPEECH-LANGUAGE PATHOLOGIST.—The term 'speech-language pathologist' means a speech-language pathologist who meets all of the following:

"(A) the speech-language pathologist has received, at a minimum, a graduate degree in speech-language pathology or communication sciences and disorders from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a) of this Act; and

"(B) the speech-language pathologist meets or exceeds the qualifications described in section

1861(ll)(3) of the Social Security Act (42 U.S.C. 1395x(3)).

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.".

SEC. 2120. UNSUBSIDIZED STAFFORD LOANS.

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

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

SEC. 2121. ELIMINATION OF TERMINATION DATES FROM TAXPAYER-TEACHER PROTECTION ACT OF 2004.

(a) EXTENSION OF LIMITATIONS ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006,"; and

(2) in clause (v)(II)—

(A) by striking "and before January 1, 2006," each place it appears in divisions (aa) and (bb); and

(B) by striking ", and before January 1, 2006" in division (cc).

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

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

"(I) that were made or purchased on or after October 1, 2005; or

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

(c) ELIMINATION OF EFFECTIVE DATE LIMITATION ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—Paragraph (3) of section 3(b) of the Taxpayer-Teacher Protection

Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ", and before October 1, 2005".

(d) ADDITIONAL CHANGES TO TEACHER LOAN FORGIVENESS PROVISIONS.—

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

(A) in subsection (b)(1)(B), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)";

(B) in subsection (c)(3)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

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

"(C) an elementary or secondary school teacher who primarily teaches reading—

"(i) who meets the requirements of subsection (b);

"(ii) who has obtained a separate reading instruction credential from the State in which the teacher is employed; and

"(iii) who is certified by the chief administrative officer of the public or nonprofit private elementary or secondary school in which the borrower is employed to teach reading—

"(I) as being proficient in teaching the essential components of reading instruction as defined in section 1208 of the Elementary and Secondary Education Act of 1965; and

"(II) as having such credential."; and

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

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (a)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such

a private school teacher must be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test must equal or exceed the average passing score of those 5 States.".

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

(A) in subsection (b)(1)(A)(ii), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)";

(B) in subsection (c)(3)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

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

"(C) an elementary or secondary school teacher who primarily teaches reading—

"(i) who meets the requirements of subsection (b);

"(ii) who has obtained a separate reading instruction credential from the State in which the teacher is employed; and

"(iii) who is certified by the chief administrative officer of the public or nonprofit private elementary or secondary school in which the borrower is employed to teach reading—

"(I) as being proficient in teaching the essential components of reading instruction as defined in section 1208 of the Elementary and Secondary Education Act of 1965; and

"(II) as having such credential."; and

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

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (a)(1)(A)(ii), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous sub-

ject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher must be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test must equal or exceed the average passing score of those 5 States.".

SEC. 2122. LOAN FEES FROM LENDERS.

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

"(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1) shall be equal to—

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

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

SEC. 2123. ADDITIONAL ADMINISTRATIVE PROVISIONS.

(a) TREATMENT OF EXEMPT CLAIMS.—

(1) INSURANCE COVERAGE.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by inserting before the semicolon at the end the following: "and 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G)".

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

(A) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

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

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

"(I) the fourth sentence of subparagraph (A) by substituting '100 percent' for '95 percent';

"(II) subparagraph (B)(i) by substituting '100 percent' for '85 percent'; and

"(III) subparagraph (B)(ii) by substituting '100 percent' for '75 percent'.

"(ii) For purposes of clause (i) of this subparagraph, the term 'exempt claims' means claims with

respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.".

(b) REDUCTION OF INSURANCE PERCENTAGE.—

(1) INSURANCE PERCENTAGE REDUCTION.—Section 428(b)(1)(G) as amended by subsection (a)(1) is further amended by inserting after the matter inserted by such subsection the following: ", except, for any loan for which the first disbursement of principal is made on or after July 1, 2006, the preceding provisions of this subparagraph shall be applied by substituting '96 percent' for '98 percent' ".

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

"SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES FOR EXCEPTIONAL PERFORMANCE.

"(a) DESIGNATION OF LENDERS AND SERVICERS.—

"(1) IN GENERAL.—Whenever the Secretary determines that an eligible lender or servicer meets the

performance measures required by paragraph (2), the Secretary shall designate that eligible lender or servicer, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

"(2) PERFORMANCE MEASURES.—

"(A) In determining whether to award a lender or servicer the exceptional performance designation, the Secretary shall require that the lender or servicer be performing at or above the 95 percentile of the industry, and demonstrate improved performance against the lender's or servicer's average of the last 3 years on the factors described in subparagraph (B).

"(B) The factors on which the Secretary shall require improvement shall include—

"(i) delinquency rates;

"(ii) the rate at which delinquent accounts are restored to good standing;

"(iii) default rates;

"(iv) the rate of rejected claims; and

"(v) any other such measures as determined by the Secretary.

"(C) In addition, the Secretary shall not make any award of such a designation unless the consequence of the designation is cost-neutral to the Federal Government.

"(3) ADDITIONAL INFORMATION ON LENDERS AND SERVICERS.—Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under paragraph (1), including but not limited to any information suggesting that the application of a lender or servicer for designation should not be approved.

"(4) DETERMINATIONS BY THE SECRETARY.—

"(A) The Secretary shall designate an eligible lender or servicer for exceptional performance if the eligible lender or servicer meets the performance measures required by paragraph (2).

"(B) The Secretary shall make the determination under paragraph (1) based upon the documentation submitted by the eligible lender or servicer as specified in regulation, such other information as provided by any guaranty agency under paragraph (3), and any information in the possession of the Secretary or submitted by

any other agency or office of the Federal Government.

"(C) The Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional performance lender or servicer has been approved or disapproved.

"(5) TRANSITION.—

"(A) Any eligible lender or servicer designated for exceptional performance as of the day before the date of enactment of the Higher Education Budget Reconciliation Act of 2005 shall continue to be so designated, and subject to the requirements of this section as in effect on that day (including revocation), until the performance standards described in paragraph (2) are established.

"(B) The Secretary shall not designate any additional eligible lenders or servicers for exceptional performance until those performance standards are established.

"(b) PAYMENT TO LENDERS AND SERVICERS.—A guaranty agency shall pay, to each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a), 98 percent of the unpaid principal and in-

terest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section, or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a)(2) has been revoked.

"(c) REVOCATION AUTHORITY.—

"(1) The Secretary shall revoke the designation of a lender or a servicer under subsection (a) if the Secretary determines that the lender or servicer has failed to meet the performance standards required by subsection (a)(2).

"(2) Notwithstanding any other provision of this section, a designation under subsection (a) may be revoked at any time by the Secretary, in the Secretary's discretion, if the Secretary determines that the eligible lender or servicer has failed to meet the criteria and performance standards established by the Secretary in regulation, or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a), or is failing to service loans in accordance with program regulations.

"(d) DOCUMENTATION.—Nothing in this section shall restrict or limit the authority of guaranty agencies to re-

quire the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a).

"(e) SPECIAL RULE.—Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender or loan servicer engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

"(f) LIMITATION.—Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this section.

"(g) CLAIMS.—A lender or servicer designated under subsection (a) failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of section 3729 of title 31, United States Code.

"(h) TERMINATION.—The Secretary may terminate the designation of lenders and servicers under this section if he determines that termination would be in the fiscal interest of the United States.

"(i) DEFINITIONS.—As used in this section—

"(1) the term 'eligible loan' means a loan made, insured, or guaranteed under this part; and

"(2) the term 'servicer' means an entity servicing and collecting student loans that—

"(A) has substantial experience in servicing and collecting consumer loans or student loans;

"(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

"(C) has business systems which are capable of meeting the requirements of this part;

"(D) has adequate personnel who are knowledgeable about the student loan programs authorized by this part; and

"(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.".

(3) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(c) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (3)(A)(i)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (10)" after "approval of the insurer"; and

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

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.".

(d) CONSOLIDATION OF DEFAULTED LOANS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part";

(2) in paragraph (2)(D), by striking "paragraph (6)" and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by inserting "(A)" before "For the purpose of paragraph (2)(D),";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

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

"(B) A guaranty agency shall—

"(i) on or after October 1, 2006—

"(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan

that is paid off with excess consolidation proceeds.

"(C) For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

(e) COLLECTION RETENTION PERCENTAGES.—Clause (ii) of section 428(c)(6)(B) (20 U.S.C. 1078(c)(6)(B)), as redesignated by subsection (d)(3) of this section, is amended to read as follows:

"(ii) an amount equal to 24 percent of such payments for use in accordance with section 422B, except that—

"(I) beginning on October 1, 2003, and ending on October 1, 2006, this clause shall be applied by substituting '23 percent' for '24 percent'; and

"(II) beginning on October 1, 2006, this clause shall be applied by substituting '20 percent' for '24 percent'.".

(f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A (20 U.S.C. 1078–1) is amended—

(1) in subsection (a)(1)(B), by striking "unless the Secretary" and all that follows through "designated guarantor";

(2) by striking paragraph (2) of subsection (a);

(3) in paragraph (4)(B) of subsection (a), by striking "and any waivers provided to other guaranty agencies under paragraph (2)";

(4) by redesignating paragraphs (3) and (4) of subsection (a) as paragraphs (2) and (3), respectively; and

(5) by striking paragraph (3) of subsection (c) and inserting the following:

"(3) NOTICE TO INTERESTED PARTIES.—Once the Secretary reaches a tentative agreement in principle under this section, the Secretary shall publish in the Federal Register a notice that invites interested parties to comment on the proposed agreement. The notice shall state how to obtain a copy of the tentative agreement in principle and shall give interested parties no less than 30 days to provide comments. The Secretary may consider such comments prior to providing the notices pursuant to paragraph (2).".

(g) FRAUD: REPAYMENT REQUIRED.—Section 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and".

(h) DEFAULT REDUCTION PROGRAM.—Section 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during 10 consecutive months";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) A guaranty agency may charge the borrower and retain collection costs in an

amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).".

(i) FINANCIAL AND ECONOMIC LITERACY.—

(1) DEFAULT REDUCTION PROGRAM.—Section 428F is further amended by adding at the end the following:

"(c) FINANCIAL AND ECONOMIC LITERACY.—Where appropriate, each program described under subsection (b) shall include making financial and economic education materials available to the borrower.".

(2) PROGRAM ASSISTANCE FOR BORROWERS.—Section 432(k)(1) (20 U.S.C. 1082(k)(1)) is amended by striking "and offering" and all that follows through the period and inserting ", offering loan repayment matching provisions as part of employee benefit packages, and providing employees with financial and economic education and counseling.".

(j) CREDIT BUREAU ORGANIZATION AGREEMENTS.—Section 430A(a) (20 U.S.C. 1080a(a)) is amended by striking "agreements with credit bureau organizations" and inserting "an agreement with each national credit bureau organization (as described in section 603(p) of the Fair Credit Reporting Act)".

(k) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is amended by inserting "and anticipated graduation date" after "status change".

(l) DEFAULT REDUCTION MANAGEMENT.—Section 432 is further amended—

(1) by striking subsection (n); and

(2) by redesignating subsections (o) and (p) as subsections (n) and (o), respectively.

(m) SCHOOLS AS LENDERS.—Paragraph (2) of section 435(d) (20 U.S.C. 1085(d)(2)) is amended to read as follows:

"(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

"(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—

"(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(ii) shall not be a home study school;

"(iii) shall not—

"(I) make a loan to any undergraduate student;

"(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or

"(III) make a loan to a borrower who is not enrolled at that institution;

"(iv) shall award any contract for financing, servicing, or administration of loans under this title on a competitive basis;

"(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

"(vi) shall not have a cohort default rate (as defined in section 435(m)) greater than 10 percent;

"(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary; and

"(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies re-

ceived from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs.

"(B) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

"(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.".

(n) DISABILITY DETERMINATIONS.—Section 437(a) (20 U.S.C. 1087(a)) is amended by adding at the end the following new sentence: "In making such determination of permanent and total disability, the Secretary shall not require a borrower who has been certified as permanently and totally disabled by the Department of Veterans Affairs or the Social Security Administration to present further documentation of disability for purposes of this title.".

(o) TREATMENT OF FALSELY CERTIFIED BORROWERS.—Section 437(c)(1) (20 U.S.C. 1087(c)(1)) is

amended by inserting "or parent's eligibility" after "such student's eligibility".

(p) PERFECTION OF SECURITY INTERESTS.—Section 439(d) (20 U.S.C. 1087–2(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(q) ADDITIONAL TECHNICAL AMENDMENTS.—

(1) Section 428(a)(2)(A) (20 U.S.C. 1078(a)(2)(A)) is amended—

(A) by striking "and" at the end of subclause (II) of clause (i); and

(B) by moving the margin of clause (iii) two ems to the left.

(2) Section 428(a)(3)(A)(v) (20 U.S.C. 1078(a)(3)(A)(v)) is amended—

(A) by striking "or" at the end of subclause (I);

(B) by striking the period at the end of subclause (II) and inserting "; or"; and

(C) by adding after subclause (II) the following new subclause:

"(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.".

(3) Section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "45 days" in the last sentence and inserting "30 days".

(4) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is amended by striking "21 days" in the third sentence and inserting "10 days".

(5) Section 428G(e) (20 U.S.C. 1078–7(e)) is amended by striking ", made to a student to cover the cost of attendance at an eligible institution outside the United States,".

(6) Section 428H(e) (20 U.S.C. 1078–8(e)) is amended by striking paragraph (6) and inserting the following:

"(6) TIME LIMITS ON BILLING INTEREST.—A lender may not receive interest on a loan under this section from a borrower for any period that precedes the dates described in section 428(a)(3)(A)(v).".

(7) Section 432(m)(1)(B) (20 U.S.C. 1082(m)(1)(B)) is amended—

(A) in clause (i), by inserting "and" after the semicolon at the end; and

(B) in clause (ii), by striking "; and" and inserting a period.

(8) Section 438(b)(4)(B) (20 U.S.C. 1087–1(b)(4)(B)) is amended by striking "shall be com-

puted" and all that follows through "to the loan" and inserting "described in subparagraph (A) shall be computed using the interest rate described in section 3902(a) of title 31, United States Code,".

SEC. 2124. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 is amended to read as follows:

"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) ADMINISTRATIVE EXPENSES.—

"(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

"(2) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEAR 2007.—For each of the fiscal years 2007 through 2011, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and

part B, including the costs of the direct student loan programs under this part.

"(3) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2011, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

"(4) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(5) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(3) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities

for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.".

SEC. 2125. SIGNIFICANTLY SIMPLIFYING THE STUDENT AID APPLICATION PROCESS.

(a) EXPANDING THE AUTO-ZERO AND FURTHER SIMPLIFYING THE SIMPLIFIED NEEDS TEST.—

(1) SIMPLIFIED NEEDS TEST.—Section 479 (20 U.S.C. 1087ss) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) by striking clause (i) of subparagraph (A) and inserting the following:

"(i) the student's parents file, or are eligible to file, a form described in paragraph (3) or certify that they are not required to file an income tax return, and the student files, or is eligible to file, such a form or certifies that the student is not required to file an income tax return, or the student's parents, or the student, received benefits at

some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(II) by striking clause (i) of subparagraph (B) and inserting the following:

"(i) the student (and the student's spouse, if any) files, or is eligible to file, a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return, or the student (and the student's spouse, if any) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) in paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the parent,

files a form described in this subsection, or subsection (c), as the case may be, if the student or parent, as appropriate, files";

(B) in subsection (c)—

(i) in paragraph (1), by striking subparagraph (A) and inserting the following: "(A) the student's parents file, or are eligible to file, a form described in subsection (b)(3) or certify that they are not required to file an income tax return, and the student files, or is eligible to file, such a form or certifies that the student is not required to file an income tax return, or the student's parents, or the student, received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined in subsection (d); and"; and

(ii) in paragraph (2), by striking subparagraph (A) and inserting the following: "(A) the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return, or the student (and the student's spouse, if any) received

benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined in subsection (d); and"; and

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

"(d) DEFINITION OF MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For the purposes of this section, the term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as the supplemental security income program under title XVI of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act, the temporary assistance to needy families program established under part A of title IV of the Social Security Act, and the women, infants and children program established under Section 17 of the Child Nutrition Act of 1966, and other programs identified by the Secretary.

"(e) REPORTING REQUIREMENTS.—The Secretary shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A) and (c)(2)(A) of this section. In particular, the Secretary shall evaluate whether using receipt of benefits under a means-tested Federal benefit program (as defined in subsection (d)) for eligibility continues to target the Simplified Needs Test, to the greatest extent possible, for use by low- and moderate-income students and their families.".

(b) IMPROVEMENTS TO PAPER AND ELECTRONIC FORMS.—

(1) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483(a) (20 U.S.C. 1090(a)) is amended—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (9), (10), (11), and (12), respectively;

(C) by inserting before paragraph (9), as redesignated by subparagraph (B), the following:

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge com-

mon financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the 'Free Application for Federal Student Aid' or the 'FAFSA'

.

"(2) EARLY ESTIMATES.—

"(A) IN GENERAL.—The Secretary shall permit applicants to complete such forms as described in this subsection in the 4 years prior to enrollment in order to obtain a non-binding estimate of the family contribution, as defined in section 473. The estimate shall clearly and conspicuously indicate that it is only an estimate of family contribution, and may not reflect the actual family contribution of the applicant that shall be used to determine the grant, loan, or work assistance that the applicant may receive under this title when enrolled in a program of postsecondary education. Such applicants shall be permitted to update information submitted on

forms described in this subsection using the process required under paragraph (5)(A).

"(B) EVALUATION.—Two years after the early estimates are implemented under this paragraph and from data gathered from the early estimates, the Secretary shall evaluate the differences between initial, non-binding early estimates and the final financial aid award made available under this title.

"(C) REPORT.—The Secretary shall provide a report to the authorizing committees on the results of the evaluation.

"(3) PAPER FORMAT.—

"(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

"(B) EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

"(ii) REDUCED DATA REQUIREMENTS.—The form under this subparagraph shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

"(iii) STATE DATA.—The Secretary shall include on the form under this subparagraph such data items as may be necessary to award State financial assistance, as provided under paragraph (6), except that the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the form under this subparagraph.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (7) shall apply to the form under this subparagraph, and the data collected by means of the form under this subparagraph shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the form under this subparagraph.

"(C) PROMOTING THE USE OF ELECTRONIC FAFSA.—

"(i) IN GENERAL.—The Secretary shall—

"(I) develop a form that uses skip logic to simplify the application process for applicants; and

"(II) make all efforts to encourage applicants to utilize the electronic forms described in paragraph (4).

"(ii) MAINTENANCE OF THE FAFSA IN A PRINTABLE ELECTRONIC FILE.—The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable. The printable electronic file will be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (4) of this subsection. The Secretary shall enable students to submit a

form created under this subparagraph that is downloaded and printed from an electronic file format in order to meet the filing requirements of this section and in order to receive aid from programs under this title.

"(iii) REPORTING REQUIREMENT.—The Secretary shall report annually to Congress on the impact of the digital divide on students completing applications for title IV aid described under this paragraph and paragraph (4). The Secretary will also report on the steps taken to eliminate the digital divide and phase out the paper form described in subparagraph (A) of this paragraph. The Secretary's report will specifically address the impact of the digital divide on the following student populations: dependent students, independent students without dependents, and independent students with dependents other than a spouse.

"(4) ELECTRONIC FORMAT.—

"(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop com-

mon electronic forms for applicants who do not meet the requirements of subparagraph (C) of this paragraph.

"(B) STATE DATA.—The Secretary shall include on the common electronic forms space for information that needs to be submitted from the applicant to be eligible for State financial assistance, as provided under paragraph (6), except the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence.

"(C) SIMPLIFIED APPLICATIONS: FAFSA ON THE WEB.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under subsection (c) of section 479 and an additional, separate simplified electronic application form to be used by applicants meeting the requirements under subsection (b) of section 479.

"(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application forms shall permit an applicant to sub-

mit for financial assistance purposes only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 479.

"(iii) STATE DATA.—The Secretary shall include on the simplified electronic application forms such data items as may be necessary to award state financial assistance, as provided under paragraph (6), except that the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence.

"(iv) AVAILABILITY AND PROCESSING.—The data collected by means of the simplified electronic application forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the forms developed under this subparagraph.

"(D) USE OF FORMS.—Nothing in this subsection shall be construed to prohibit the use of

the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

"(E) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for

making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, and an expected family contribution has been calculated by the Secretary, except as may be permitted under this title.

"(F) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form under this paragraph to be submitted with an electronic signature.

"(5) STREAMLINING.—

"(A) STREAMLINED REAPPLICATION PROCESS.—

"(i) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title—

"(I) in the academic year succeeding the year in which such applicant first applied for financial assistance under this title; or

"(II) in any succeeding academic years.

"(ii) MECHANISMS FOR REAPPLICATION.—The Secretary shall develop appropriate mechanisms to support reapplication.

"(iii) IDENTIFICATION OF UPDATED DATA.—The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

"(iv) REDUCED DATA AUTHORIZED.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

"(v) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except

that which is necessary to determine eligibility under such section.

"(B) REDUCTION OF DATA ELEMENTS.—

"(i) REDUCTION ENCOURAGED.—Of the number of data elements on the FAFSA on the date of enactment of the Higher Education Budget Reconciliation Act of 2005 (including questions on the FAFSA for the purposes described in paragraph (6)), the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall continue to reduce the number of such data elements following the date of enactment. Reductions of data elements under paragraph (3)(B), (4)(C), or (5)(A)(iv) shall not be counted towards the reduction referred to in this paragraph unless those data elements are reduced for all applicants.

"(ii) REPORT.—The Secretary shall annually report to the House of Representatives and the Senate on the progress made of reducing data elements.

"(6) STATE REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for State need-based financial aid under section 415C, except as provided in paragraphs (3)(B)(iii) and (4)(C)(iii) of this subsection. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection, except as provided in paragraphs (3)(B)(iii) and (4)(C)(iii) of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based financial aid.

"(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award State need-based financial aid and other application requirements that the States may impose.

"(C) STATE USE OF SIMPLIFIED FORMS.—The Secretary shall encourage States to take such steps as necessary to encourage the use of simplified application forms, including those described in paragraphs (3)(B) and (4)(C), to meet the requirements under subsection (b) or (c) of section 479.

"(D) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

"(i) if the State agency is unable to permit applicants to utilize the simplified application forms described in paragraphs (3)(B) and (4)(C); and

"(ii) of the State-specific data that the State agency requires for delivery of State need-based financial aid.

"(E) STATE NOTIFICATION TO THE SECRETARY.—

"(i) IN GENERAL.—Each State agency shall notify the Secretary—

"(I) whether the State permits an applicant to file a form described in paragraph (3)(B) or paragraph (4)(C)

of this subsection for purposes of determining eligibility for State need-based financial aid; and

"(II) the State-specific data that the State agency requires for delivery of State need-based financial aid.

"(ii) ACCEPTANCE OF FORMS.—In the event that a State does not permit an applicant to file a form described in paragraph (3)(B) or paragraph (4)(C) of this subsection for purposes of determining eligibility for State need-based financial aid—

"(I) the State shall notify the Secretary if the State is not permitted to do so because of either State law or because of agency policy; and

"(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete simplified application forms under paragraphs (3)(B) and paragraph (4)(C) of this subsection.

"(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Sec-

retary pursuant to clause (i), the Secretary shall—

"(I) permit residents of that State to complete simplified application forms under paragraphs (3)(B) and paragraph (4)(C) of this subsection; and

"(II) not require any resident of that State to complete any data previously required by that State under this section.

"(7) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—

"(A) FEES PROHIBITED.—The FAFSA, in whatever form (including the EZ–FAFSA, paper, electronic, simplified, or reapplication), shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by any entity for the collection, processing, or delivery of financial aid through the use of the FAFSA. The need and eligibility of a student for financial assistance under parts A through E of this title (other than under subpart 4 of part A) may only be determined by using the FAFSA developed by the Secretary

pursuant to this subsection. No student may receive assistance under parts A through E of this title (other than under subpart 4 of part A), except by use of the FAFSA developed by the Secretary pursuant to this subsection. No data collected on a form, worksheet, or other document for which a fee is charged shall be used to complete the FAFSA.

"(B) NOTICE.—Any entity that provides to students or parents, or charges students or parents for, any value-added services with respect to or in connection with the FAFSA, such as completion of the FAFSA, submission of the FAFSA, or tracking of the FAFSA for a student, shall provide to students and parents clear and conspicuous notice that—

"(i) the FAFSA is a free Federal student aid application;

"(ii) the FAFSA can be completed without professional assistance; and

"(iii) includes the current Internet address for the FAFSA on the Department's web site.

"(8) APPLICATION PROCESSING CYCLE.—The Secretary shall enable students to submit a form cre-

ated under this subsection in order to meet the filing requirements of this section and in order to receive aid from programs under this title and shall initiate the processing of applications under this subsection as early as practicable prior to January 1 of the student's planned year of enrollment.".

(2) MASTER CALENDAR.—Section 482(a)(1)(B) (20 U.S.C. 1089) is amended to read as follows:

"(B) by March 1: proposed modifications, updates, and notices pursuant to sections 478, 479(c)(2)(C), and 483(a)(6) published in the Federal Register;".

(c) INCREASING ACCESS TO TECHNOLOGY.—Section 483 (20 U.S.C. 1090) is further amended by adding at the end the following:

"(f) ADDRESSING THE DIGITAL DIVIDE.—The Secretary shall utilize savings accrued by moving more applicants to the electronic forms described in subsection (a)(4) to improve access to the electronic forms described in subsection (a)(4) for applicants meeting the requirements of section 479(c).".

(d) EXPANDING THE DEFINITION OF AN INDEPENDENT STUDENT.—Section 480(d) (20 U.S.C.1087vv(d)) is amended by striking paragraph (2) and inserting the following:

"(2) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;".

SEC. 2126. ADDITIONAL NEED ANALYSIS AMENDMENTS.

(a) INCOME PROTECTION ALLOWANCE FOR DEPENDENT STUDENTS.——

(1) AMENDMENT.—Section 475(g)(2)(D) (20 U.S.C. 1087oo(g)(2)(D)) is amended by striking "$2,200" and inserting "$3,000".

(2) CONFORMING AMENDMENT.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended by adding at the end the following new paragraph:

"(3) REVISED AMOUNTS AFTER INCREASE.—Notwithstanding paragraph (2), for each academic year after academic year 2006–2007, the Secretary shall publish in the Federal Register a revised income protection allowance for the purpose of section 475(g)(2)(D). Such revised allowance shall be developed by increasing the dollar amount contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2005 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2006.

(b) EMPLOYMENT EXPENSE ALLOWANCE.—Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(1) by striking "476(b)(4)(B),"; and

(2) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

(c) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) (20 U.S.C. 1087tt(a)) is amended—

(1) by striking "(a) IN GENERAL.—" and inserting the following:

"(a) AUTHORITY TO MAKE ADJUSTMENTS.—

"(1) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—";

(2) by inserting before "Special circumstances may" the following:

"(2) SPECIAL CIRCUMSTANCES DEFINED.—";

(3) by inserting "a student's status as a ward of the court at any time prior to attaining 18 years of

age, a student's status as an individual who was adopted at or after age 13, a student's status as a homeless or unaccompanied youth (as defined in section 725 of the McKinney-Vento Homeless Assistance Act)," after "487,";

(4) by inserting before "Adequate documentation" the following:

"(3) DOCUMENTATION AND USE OF SUPPLEMENTARY INFORMATION.—"; and

(5) by inserting before "No student" the following:

"(4) FEES FOR SUPPLEMENTARY INFORMATION PROHIBITED.—".

(d) TREATING ACTIVE DUTY MEMBERS OF THE ARMED FORCES AS INDEPENDENT STUDENTS.—Section 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or is currently serving on active duty in the Armed Forces for other than training purposes".

(e) EXCLUDABLE INCOME.—Section 480(e) (20 U.S.C. 1087vv(e)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

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

"(5) any part of any distribution from a qualified tuition program established under section 529 of the Internal Revenue Code of 1986 that is not includable in gross income under such section 529.".

(f) TREATMENT OF SAVINGS PLANS.—

(1) AMENDMENT.—Section 480(f) (20 U.S.C. 1087vv(f)) is amended—

(A) in paragraph (1), by inserting "qualified tuition programs established under section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529), except as provided in paragraph (2)," after "tax shelters,";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) A qualified tuition program shall not be considered an asset of a dependent student under section 475 of this part. The value of a qualified tuition program for purposes of determining the assets of parents or independent students shall be—

"(A) the refund value of any tuition credits or certificates purchased under section 529 of the Inter-

nal Revenue Code of 1986 (26 U.S.C. 529) on behalf of a beneficiary; or

"(B) the current balance of any account which is established under such section for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account.".

(2) CONFORMING AMENDMENT.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(A) by striking "; TUITION PREPAYMENT PLANS" in the heading of such subsection;

(B) by striking paragraph (2);

(C) in paragraph (3), by inserting ", or a distribution that is not includable in gross income under section 529 of such Code," after "1986"; and

(D) by redesignating paragraph (3) as paragraph (2).

(g) TREATMENT OF FAMILY OWNERSHIP OF SMALL BUSINESSES.—Section 480(f)(3) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)(3)), as redesignated by subsection (f) of this section, is amended—

(1) in subparagraph (A), by striking "or";

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.".

(h) DESIGNATED ASSISTANCE.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended by adding after paragraph (2) (as redesignated by subsection (f)(2)(D) of this section) the following new paragraph:

"(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.".

SEC. 2127. DEFINITION OF ELIGIBLE PROGRAM.

Section 481(b) (20 U.S.C. 1088(b)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this title, an eligible program includes an instructional program that utilizes direct assessment of student learning, or recognizes the direct assessment of student learning, in lieu of credit hours or clock hours

as the measure of student learning. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be eligible. The Secretary shall provide an annual report to Congress identifying the programs made eligible under this paragraph.".

SEC. 2128. DISTANCE EDUCATION.

(a) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—Section 481(b) (20 U.S.C. 1088(b)) is amended by adding after paragraph (3) (as added by section 2127 of this Act) the following new paragraph:

"(4) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of this paragraph) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

"(A) is recognized by the Secretary under subpart 2 of Part H; and

"(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3).".

(b) CORRESPONDENCE COURSES.—Section 484(l)(1) (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "for a program of study of 1 year or longer"; and

(B) by striking "unless the total" and all that follows through "courses at the institution"; and

(2) by amending subparagraph (B) to read as follows:

"(B) EXCEPTION.—Subparagraph (A) does not apply to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.".

SEC. 2129. STUDENT ELIGIBILITY.

(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary,

or to the holder in the case of a loan under this title obtained by fraud.".

(b) TECHNICAL AMENDMENT.—Section 484(b)(5) (20 U.S.C. 1091(b)(5)) is amended by inserting "or parent (on behalf of a student)" after "student".

(c) LOAN INELIGIBILITY BASED ON INVOLUNTARY CIVIL COMMITMENT FOR SEXUAL OFFENSES.—Section 484(b)(5) (20 U.S.C. 1091(b)(5)) is further amended by inserting before the period the following: ", and no student who is subject to an involuntary civil commitment upon completion of a period of incarceration for a sexual offense (as determined under regulations of the Secretary) is eligible to receive a loan under this title".

(d) FREELY ASSOCIATED STATES.—Section 484(j) (20 U.S.C. 1091(j)) is amended by inserting "and shall be eligible only for assistance under subpart 1 of part A thereafter," after "part C,".

(e) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to read as follows:

"(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the information specified in section 6103(l)(13) of the Internal Revenue Code of 1986 re-

ported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.".

(f) SUSPENSION OF ELIGIBILITY FOR DRUG OFFENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is amended by striking everything preceding the table and inserting the following:

"(1) IN GENERAL.—A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:".

SEC. 2130. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended—

(1) in subsection (a)(1), by inserting "subpart 4 of part A or" after "received under";

(2) in subsection (a)(2), by striking "takes a leave" and by inserting "takes one or more leaves";

(3) in subsection (a)(3)(B)(ii), by inserting "(as determined in accordance with subsection (d))" after "student has completed";

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.";

(5) in subsection (b)(1), by inserting "no later than 45 days from the determination of withdrawal" after "return";

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C) GRANT OVERPAYMENT REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

"(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

"(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

"(ii) MINIMUM.—A student shall not be required to return amounts of $50 or less."; and

(7) in subsection (d), by striking "(a)(3)(B)(i)" and inserting "(a)(3)(B)".

SEC. 2131. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

"SEC. 485D. COLLEGE ACCESS INITIATIVE.

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of web links and access for students and families to a com-

prehensive listing of the postsecondary education opportunities, programs, publications, Internet Web sites, and other services available in the States for which such agency serves as the designated guarantor.

"(b) GUARANTY AGENCY ACTIVITIES.—

"(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan and undertake the activity necessary to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

"(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's op-

erating account established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided by the guaranty agencies in accordance with this section to students, parents, and other interested individuals, through web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

"(3) PUBLICITY.—Within 270 days after the date of enactment of the Higher Education Budget Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

SEC. 2132. CANCELLATION OF STUDENT LOAN INDEBTEDNESS FOR SURVIVORS OF VICTIMS OF THE SEPTEMBER 11, 2001, ATTACKS.

(a) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE PUBLIC SERVANT.—The term "eligible public servant" means an individual who, as determined in accordance with regulations of the Secretary—

(A) served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(B) died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(2) ELIGIBLE VICTIM.—The term "eligible victim" means an individual who, as determined in accordance with regulations of the Secretary, died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(3) ELIGIBLE PARENT.—The term "eligible parent" means the parent of an eligible victim if—

(A) the parent owes a Federal student loan that is a consolidation loan that was used to

repay a PLUS loan incurred on behalf of such eligible victim; or

(B) the parent owes a Federal student loan that is a PLUS loan incurred on behalf of an eligible victim.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) FEDERAL STUDENT LOAN.—The term "Federal student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965.

(b) RELIEF FROM INDEBTEDNESS.—

(1) IN GENERAL.—The Secretary shall provide for the discharge or cancellation of—

(A) the Federal student loan indebtedness of the spouse of an eligible public servant, as determined in accordance with regulations of the Secretary, including any consolidation loan that was used jointly by the eligible public servant and his or her spouse to repay the Federal student loans of the spouse and the eligible public servant;

(B) the portion incurred on behalf of the eligible victim (other than an eligible public servant), of a Federal student loan that is a consoli-

dation loan that was used jointly by the eligible victim and his or her spouse, as determined in accordance with regulations of the Secretary, to repay the Federal student loans of the eligible victim and his or her spouse;

(C) the portion of the consolidation loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim; and

(D) the PLUS loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim.

(2) METHOD OF DISCHARGE OR CANCELLATION.—A loan required to be discharged or canceled under paragraph (1) shall be discharged or canceled by the method used under section 437(a), 455(a)(1), or 464(c)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)), whichever is applicable to such loan.

(c) FACILITATION OF CLAIMS.—The Secretary shall—

(1) establish procedures for the filing of applications for discharge or cancellation under this section by regulations that shall be prescribed and published within 90 days after the date of enactment of this Act and without regard to the requirements of section 553 of title 5, United States Code; and

(2) take such actions as may be necessary to publicize the availability of discharge or cancellation of Federal student loan indebtedness under this section.

(d) AVAILABILITY OF FUNDS FOR PAYMENTS.—Funds available for the purposes of making payments to lenders in accordance with section 437(a) for the discharge of indebtedness of deceased or disabled individuals shall be available for making payments under section 437(a) to lenders of loans as required by this section.

(e) APPLICABLE TO OUTSTANDING DEBT.—The provisions of this section shall be applied to discharge or cancel only Federal student loans (including consolidation loans) on which amounts were owed on September 11, 2001. Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

SEC. 2133. INDEPENDENT EVALUATION OF DISTANCE EDUCATION PROGRAMS.

(a) INDEPENDENT EVALUATION.—The Secretary of Education shall enter into an agreement with the National Academy of Sciences to conduct a scientifically correct and statistically valid evaluation of the quality of distance education programs, as compared to campus-based education programs, at institutions of higher education. Such evaluation shall include—

(1) identification of the elements by which the quality of distance education, as compared to campus-based education, can be assessed, including elements such as subject matter, interactivity, and student outcomes;

(2) identification of distance and campus-based education program success, with respect to student achievement, in relation to the mission of the institution of higher education; and

(3) identification of the types of students (including classification of types of students based on student age) who most benefit from distance education programs, the types of students who most benefit from campus-based education programs, and the types of students who do not benefit from distance education programs, by assessing elements including access to higher education, job placement rates, undergraduate graduation rates, and graduate and professional degree attainment rates.

(b) SCOPE.—The National Academy of Sciences shall select for participation in the evaluation under subsection (a) a diverse group of institutions of higher education with respect to size, mission, and geographic distribution.

(c) INTERIM AND FINAL REPORTS.—The agreement under subsection (a) shall require that the National Acad-

emy of Sciences submit to the Secretary of Education, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives—

(1) an interim report regarding the evaluation under subsection (a) not later than December 31, 2007; and

(2) a final report regarding such evaluation not later than December 31, 2009.

SEC. 2134. DISBURSEMENT OF STUDENT LOANS.

Section 422(d) of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1696) is amended by adding at the end the following new sentence: "Such amendments shall also be effective on and after July 1, 2006.".

PART 2—HIGHER EDUCATION RELIEF

SEC. 2141. REFERENCES.

References in this part to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2142. WAIVERS AND MODIFICATIONS.

Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education is authorized to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Act, or any

student or institutional eligibility provisions in the Act, as the Secretary of Education deems necessary in connection with a Gulf hurricane disaster to ensure that—

(1) the calculation of expected family contribution under section 474 of the Act used in the determination of need for student financial assistance under title IV of the Act for any affected student (and the determination of such need for his or her family, if applicable), is modified to reflect any changes in the financial condition of such affected student and his or her family resulting from a Gulf hurricane disaster; and

(2) institutions of higher education, systems of institutions, or consortia of institutions that are located in an area affected by a Gulf hurricane disaster, or that are serving affected students, are eligible, notwithstanding section 486(d) of the Act, to apply for participation in the distance education demonstration program under section 486 of the Act, except that the Secretary of Education shall include in reports under section 486(f) of the Act an identification of those institutions, systems, and consortia that were granted participation in the demonstration program due to a Gulf hurricane disaster.

SEC. 2143. CANCELLATION OF INSTITUTIONAL REPAYMENT BY COLLEGES AND UNIVERSITIES AFFECTED BY A GULF HURRICANE DISASTER.

Notwithstanding any provision of title IV of the Act or any regulation issued thereunder, the Secretary of Education shall cancel any obligation of an affected institution to return or repay any funds the institution received before the date of enactment of this Act for, or on behalf of, its students under subpart 1 or 3 of part A or parts B, C, D, or E of title IV of the Act for any cancelled enrollment period.

SEC. 2144. CANCELLATION OF STUDENT LOANS FOR CANCELLED ENROLLMENT PERIODS.

(a) LOAN FORGIVENESS AUTHORIZED.—Notwithstanding any provision of title IV of the Act, the Secretary shall discharge all loan amounts under parts B and D of title IV of the Act, and cancel any loan made under part E of such title, disbursed to, or on behalf of, an affected student for a cancelled enrollment period.

(b) REIMBURSEMENT.—The Secretary of Education shall—

(1) reimburse each affected institution for any amounts discharged under subsection (a) with respect to a loan under part E of title IV of the Act in the same manner as is required by section 465(b) of the

Act with respect to a loan cancelled under section 465(a) of the Act; and

(2) reimburse lenders for the purpose of discharging any loan amounts disbursed to, or on behalf of, an affected student under part B of title IV of the Act for a cancelled enrollment period.

(c) LIMITATION ON CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C of the Act or a Federal Direct Consolidation Loan may be eligible for discharge under this section only to the extent that such loan amount was used to repay a loan to an affected student for a cancelled enrollment period.

(d) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

SEC. 2145. TEMPORARY DEFERMENT OF STUDENT LOAN REPAYMENT.

An affected individual who is a borrower of a qualified student loan or a qualified parent loan shall be granted a deferment, not in excess of 6 months, during which periodic installments of principal need not be paid, and interest—

(1) shall accrue and be paid by the Secretary, in the case of a loan made under section 428, 428B, 428C, or 428H of the Act;

(2) shall accrue and be paid by the Secretary to the Perkins loan fund held by the institution of higher education that made the loan, in the case of a loan made under part E of title IV of the Act; and

(3) shall not accrue, in the case of a Federal Direct Loan made under part D of such title.

SEC. 2146. NO AFFECT ON GRANT AND LOAN LIMITS.

Notwithstanding any provision of title IV of the Act or any regulation issued thereunder, no grant or loan funds received by an affected student under title IV of the Act for a cancelled enrollment period shall be counted against such affected student's annual or aggregate grant or loan limits for the receipt of grants or loans under that title.

SEC. 2147. TEACHER LOAN RELIEF.

The Secretary of Education may waive the requirement of sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 that the 5 years of qualifying service be consecutive academic years for any teacher whose employment was interrupted if—

(1) the teacher was employed in qualifying service, at the time of a Gulf hurricane disaster, in a school located in an area affected by a Gulf hurricane disaster; and

(2) the teacher resumes qualifying service not later than the beginning of academic year 2006–2007

in that school or any other school in which employment is qualifying service under such section.

SEC. 2148. EXPANDING INFORMATION DISSEMINATION REGARDING ELIGIBILITY FOR PELL GRANTS.

(a) IN GENERAL.—The Secretary of Education shall make special efforts, in conjunction with State efforts, to notify affected students and if applicable, their parents, who qualify for means-tested Federal benefit programs, of their potential eligibility for a maximum Pell Grant, and shall disseminate such informational materials as the Secretary of Education deems appropriate.

(b) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For the purpose of this section, the term "means-tested Federal benefit program" means a mandatory spending program of the Federal Government, other than a program under the Act, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as the supplemental security income program under title XVI of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act, the temporary assistance to needy families program established under part A of title

IV of the Social Security Act, and the women, infants, and children program established under section 17 of the Child Nutrition Act of 1966, and other programs identified by the Secretary of Education.

SEC. 2149. PROCEDURES.

(a) DEADLINES AND PROCEDURES.—Sections 482(c) and 492 of the Act (20 U.S.C. 1089(c), 1098a) shall not apply to any waivers, modifications, or actions initiated by the Secretary of Education under this part.

(b) CASE-BY-CASE BASIS.—The Secretary of Education is not required to exercise any waiver or modification authority under this part on a case-by-case basis.

SEC. 2150. TERMINATION OF AUTHORITY.

The authority of the Secretary of Education to issue waivers or modifications under this part shall expire at the conclusion of the 2005–2006 academic year, but the expiration of such authority shall not affect the continuing validity of any such waivers or modifications after such academic year.

SEC. 2151. DEFINITIONS.

For the purposes of this part, the following terms have the following meanings:

(1) AFFECTED INDIVIDUAL.—The term "affected individual" means an individual who has applied for

or received student financial assistance under title IV of the Higher Education Act of 1965, and—

(A) who is an affected student; or

(B) whose primary place of employment or residency was, as of August 29, 2005, in an area affected by a Gulf hurricane disaster.

(2) AFFECTED INSTITUTION.—The term "affected institution" means an institution of higher education that—

(A) is located in an area affected by a Gulf hurricane disaster; and

(B) has temporarily ceased operations as a consequence of a Gulf hurricane disaster, as determined by the Secretary of Education.

(3) AFFECTED STATE.—The term "affected State" means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(4) AFFECTED STUDENT.—The term "affected student" means an individual who has applied for or received student financial assistance under title IV of the Higher Education Act of 1965, and who—

(A) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution of higher education in an area affected by a Gulf hurricane disaster;

(B) was a dependent student enrolled or accepted for enrollment at an institution of higher education that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane disaster; or

(C) was enrolled or accepted for enrollment at an institution of higher education, as of August 29, 2005, and whose attendance was interrupted because of a Gulf hurricane disaster.

(5) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term "area affected by a Gulf hurricane disaster" means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(6) CANCELLED ENROLLMENT PERIOD.—The term "cancelled enrollment period" means any period of enrollment at an affected institution during the academic year 2005.

(7) GULF HURRICANE DISASTER.—The term "Gulf hurricane disaster" means a major disaster that the President declared to exist, in accordance

with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(8) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 102 of the Higher Education Act of 1965, except that the term does not include institutions under subsection (a)(1)(C) of that section.

(9) QUALIFIED STUDENT LOAN.—The term "qualified student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965, other than a loan under section 428B of such title or a Federal Direct Plus loan.

(10) QUALIFIED PARENT LOAN.—The term "qualified parent loan" means a loan made under section 428B of title IV of the Higher Education Act of 1965 or a Federal Direct Plus loan.

Subtitle C—Pensions

SEC. 2201. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "$19" and inserting "$30".

(b) ADJUSTMENT FOR INFLATION.—Paragraph (3) of section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following new subparagraph:

"(F) For each plan year beginning after 2006, there shall be substituted for the $30 dollar amount in subparagraph (A)(i) the amount equal to the product derived by multiplying the premium rate, as in effect under this paragraph immediately prior to such plan year for basic benefits guaranteed by the corporation under section 4022 for single-employer plans, by the ratio of—

"(i) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(ii) the national average wage index (as so defined) for the first of the 3 calendar years preceding the calendar year in which the plan year begins,

with such product, if not a multiple of $1, being rounded to the next higher multiple of $1 where such product is a multiple of $0.50 but not of $1, and to the nearest multiple of $1 in any other case.".

(c) ADDITIONAL DISCRETIONARY INCREASE.—Paragraph (3) of section 4006(a) of such Act (as amended by subsection (b) of this section) is further amended by adding at the end the following new subparagraph:

"(G)(i) The corporation may increase under this subparagraph, effective for plan years commencing with or during any calendar year after 2006, the premium rate otherwise in effect under this section for basic benefits guaranteed by it under section 4022 for single-employer plans if the corporation determines that such increase is necessary to achieve actuarial soundness in the plan termination insurance program under this title.

"(ii) The amount of any premium rate described in clause (i), as increased under this subparagraph for plan years commencing with or during any calendar year, may not exceed by more than 20 percent the amount of the premium rate, in effect under this paragraph for plan years commencing with or during such calendar year for basic benefits guaranteed by the corporation under section 4022 for single-employer plans, as determined for plan years commencing with or during such calendar year without regard to this subparagraph.

"(iii) The preceding provisions of this subparagraph shall apply in connection with plan years commencing with or during any calendar year only if—

"(I) the corporation transmits to each House of the Congress and to the Comptroller General its proposal for the increase in the premium rate for plan years commencing with or during such calendar year,

subject to Congressional review under chapter 8 of title 5 of the United States Code (relating to Congressional review of agency rulemaking) not later than 120 calendar days after the beginning of the preceding calendar year, and

"(II) a joint resolution disapproving such increase has not been enacted as provided in section 802 of such title, within the 60-day period described in section 802(a) of such title.

The proposal transmitted by the corporation shall include a description of the methodologies and assumptions used in formulating its proposal. At the time of the transmittal of any such proposal to each House of the Congress pursuant to subclause (I), the corporation shall transmit a copy of such proposal to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate. Any such proposal shall, for purposes of chapter 8 of such title 5, be treated as a rule which is a major rule.".

(d) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—If the plan is terminated under 4041(c)(2)(B)(ii) or under section 4042 and, as of the termination date, a person who is (as of such date) a contributing sponsor of the plan or a member of such sponsor's controlled group has filed or has had filed against such person a petition seeking reorganization in a case under title 11 of the United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph

(A) shall not apply to such plan until the date of the discharge of such person in such case.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In any case in which the requirements of subparagraph (B) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the earliest date as of which each such person is discharged in the case described in such clause in connection with such person.

"(D) COORDINATION WITH SECTION 4007.—

"(i) Notwithstanding section 4007—

"(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

"(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

"(ii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.".

(e) CONFORMING AMENDMENTS.—

(1) Section 4006(a)(2) of such Act (29 U.S.C. 1306(a)(2)) is amended, in the matter following subparagraph (E), by inserting "paragraph (3)(G) of this subsection or" after "Except as provided in".

(2) Section 4006(b)(1) of such Act (29 U.S.C. 1306(b)(1)) is amended by inserting "or a proposal for a premium rate increase under subsection (a)(3)(G)" after "or (E)".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (d) shall apply with respect to terminations for which the termination date occurs on or after the date of the enactment of this Act.

(B) TREATMENT OF CASES IN BANKRUPTCY.—In any case in which the requirements of subparagraph (B) of section 4007(a)(7) of the Employee Retirement Income Security Act of 1974 (as added by subsection (d)) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the amendment made by subsection (d) shall apply with respect to any such termination described in such subparagraph (B), notwithstanding subparagraph (A) of this paragraph, if the case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (referred to in such subparagraph (B)) commenced after October 26, 2005.

(3) SPECIAL RULE IF SUBSEQUENT SAVINGS ENACTED.—The amendments made by this section shall

not take effect if, after the date of enactment of this Act and before January 1, 2006, a Federal law is enacted which—

(A) provides for decreases in Federal outlays which in the aggregate are less than the decreases in Federal outlays by reason of the amendments made by this section; and

(B) specifically provides that such decreases are to be in lieu of the decreases in Federal outlays by reason of the amendments made by this section.

TITLE III—COMMITTEE ON ENERGY AND COMMERCE

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Subtitle A—Medicaid

SEC. 3100. SHORT TITLE OF SUBTITLE; RULE OF CONSTRUCTION WITH REGARD TO KATRINA EVACUEES.

(a) SHORT TITLE.—This subtitle may be cited as the "Medicaid Reconciliation Act of 2005".

(b) RULE OF CONSTRUCTION WITH REGARD TO KATRINA EVACUEES.—None of the provisions of the following chapters of this subtitle shall apply during the 11-month period beginning September 1, 2005, to individuals entitled to medical assistance under title XIX of the Social Security Act by reason of their residence in a parish in the State of Louisiana, or a county in the State of Mississippi or Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 14, 2005, warrants individual and public assistance from the Federal Government under such Act.

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

SEC. 3101. FEDERAL UPPER LIMIT (FUL).

(a) IN GENERAL.—Subsection (e) of section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended to read as follows:

"(e) PHARMACY REIMBURSEMENT LIMITS.—

"(1) FEDERAL UPPER LIMIT FOR INGREDIENT COST OF COVERED OUTPATIENT DRUGS.—

"(A) IN GENERAL.—Subject to subparagraph (B), no Federal financial participation shall be available for payment for the ingredient cost of a covered outpatient drug in excess of the Federal upper limit for that drug established under paragraph (2).

"(B) OPTIONAL CARVE OUT.—A State may elect not to apply subparagraph (A) to payment for either or both of the following:

"(i) Drugs dispensed by specialty pharmacies (such as those dispensing only immunosuppressive drugs), as defined by the Secretary.

"(ii) Drugs administered by a physician in a physician's office.

"(2) FEDERAL UPPER LIMIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (D) and subject to paragraph (5), the Federal upper limit established under this paragraph for the ingredient cost of a—

"(i) single source drug, is 106 percent of the RAMP (as defined in subparagraph (B)(i)) for that drug; and

"(ii) multiple source drug, is 120 percent of the volume weighted average RAMP (as determined under subparagraph (C)) for that drug.

A drug product that is a single source drug and that becomes a multiple source drug shall continue to be treated under this subsection as a single source drug until the Secretary determines that there are sufficient data to compile the volume weighted average RAMP for that drug.

"(B) RAMP AND RELATED PROVISIONS.—For purposes of this subsection:

"(i) RAMP DEFINED.—The term 'RAMP' means, with respect to a covered outpatient drug by a manufacturer for a calendar quarter and subject to clauses (ii) and (iii), the average price paid to a manufacturer for the drug in the United States

in the quarter by wholesalers for drugs distributed to retail pharmacies, excluding service fees that are paid by the manufacturer to an entity and that represent fair market value for a bona-fide service provided by the entity.

"(ii) SALES EXEMPTED FROM COMPUTATION.—The RAMP under clause (i) shall exclude any of the following:

"(I) Sales exempt from inclusion in the determination of best price under subsection (c)(1)(C)(i).

"(II) Such other sales as the Secretary identifies as sales to an entity that are merely nominal in amount under subsection (c)(1)(C)(ii)(III).

"(iii) SALE PRICE NET OF DISCOUNTS.—In calculating the RAMP under clause (i), such RAMP shall include any of the following:

"(I) Cash discounts and volume discounts.

"(II) Free goods that are contingent upon any purchase requirement.

"(III) Sales at a nominal price that are contingent upon any purchase requirement or agreement.

"(IV) Chargebacks, rebates (not including rebates provided under an agreement under this section), or any other direct or indirect discounts.

"(V) Any other price concessions, which may be based on recommendations of the Inspector General of the Department of Health and Human Services, that would result in a reduction of the cost to the purchaser.

"(iv) RETAIL PHARMACY.—For purposes of this subsection, the term 'retail pharmacy' does not include mail-order only pharmacies or any pharmacy at a nursing facility or home.

"(C) VOLUME WEIGHTED AVERAGE RAMP DEFINED.—For purposes of this subsection, for all drug products included within the same multiple source drug billing and payment code (or such other methodology as may be specified by the Secretary), the volume weighted average RAMP is the volume weighted average of the

RAMPs reported under subsection (b)(3)(A)(iv) determined by—

"(i) computing the sum of the products (for each National Drug Code assigned to such drug products) of—

"(I) the manufacturer's RAMP (as defined in subparagraph (B)); and

"(II) the total number of units specified under section 1847A(b)(2) sold; and

"(ii) dividing the sum determined under clause (i) by the sum of the total number of units under clause (i)(II) for all National Drug Codes assigned to such drug products.

"(D) EXCEPTION FOR INITIAL SALES PERIODS.—

"(i) IN GENERAL.—In the case of a single source drug during an initial sales period (not to exceed 2 calendar quarters) in which data on sales for the drug are not sufficiently available from the manufacturer to compute the RAMP or the volume weighted average RAMP under subparagraph (C), the Federal upper limit for the ingredient

cost of such drug during such period shall be the wholesale acquisition cost (as defined in clause (ii)) for the drug.

"(ii) WHOLESALE ACQUISITION COST.—For purposes of clause (i), the term 'wholesale acquisition cost' means, with respect to a single source drug, the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological pricing data.

"(E) UPDATES; DATA COLLECTION.—

"(i) FREQUENCY OF DETERMINATION.—The Secretary shall update the Federal upper limits applicable under this paragraph on at least a quarterly basis, taking into account the most recent data collected for purposes of determining such limits and the Food and Drug Administration's most recent publication of 'Approved

Drug Products with Therapeutic Equivalence Evaluations'.

"(ii) COLLECTION OF DATA.—Data on RAMP is collected under subsection (b)(3)(A)(iv).

"(F) AUTHORITY TO ENTER CONTRACTS.—The Secretary may enter into contracts with appropriate entities to determine RAMPs and other data necessary to calculate the Federal upper limit for a covered outpatient drug established under this subsection and to calculate that payment limit.

"(3) DISPENSING FEES.—

"(A) IN GENERAL.—A State which provides medical assistance for covered outpatient drugs shall pay a dispensing fee for each covered outpatient drug in accordance with this paragraph. A State may vary the amount of such dispensing fees, including taking into account the special circumstances of pharmacies that are serving rural or underserved areas or that are sole community pharmacies, so long as such variation is consistent with subparagraph (B).

"(B) DISPENSING FEE PAYMENT FOR MULTIPLE SOURCE DRUGS.—A State shall establish a

dispensing fee under this title for a covered outpatient drug that is treated as a multiple source drug under paragraph (2)(A) (whether or not it may be an innovator multiple source drug) in an amount that is not less than $8 per prescription unit. The Secretary shall define what constitutes a prescription unit for purposes of the previous sentence.

"(4) EFFECT ON STATE MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions in effect prior to January 1, 1991, or after December 31, 1994, relating to any maximum allowable cost limitation established by a State for payment by the State for covered outpatient drugs, and rebates shall be made under this section without regard to whether or not payment by the State for such drugs is subject to such a limitation or the amount of such a limitation.

"(5) EVALUATION OF USE OF RETAIL SURVEY PRICE METHODOLOGY.—

"(A) IN GENERAL.—The Secretary may develop a methodology to set the Federal upper limit based on the reported retail survey price, as most recently reported under subparagraph (C), instead of a percentage of RAMP or volume

weighted average RAMP as described in paragraph (2).

"(B) INITIAL APPLICATION.—For 2007, the Secretary may use this methodology for a limited number of covered outpatient drugs, including both single source and multiple source drugs, selected by the Secretary in a manner so as to be representative of the classes of drugs dispensed under this title.

"(C) DETERMINATION OF RETAIL SURVEY PRICE FOR COVERED OUTPATIENT DRUGS.—

"(i) USE OF VENDOR.—The Secretary may contract services for the determination of retail survey prices for covered outpatient drugs that represent a nationwide average of pharmacy sales costs for such drugs, net of all discounts and rebates. Such a contract shall be awarded for a term of 2 years.

"(ii) USE OF COMPETITIVE BIDDING.—In contracting for such services, the Secretary shall competitively bid for an outside vendor that has a demonstrated history in—

"(I) surveying and determining, on a representative nationwide basis,

retail prices for ingredient costs of prescription drugs;

"(II) working with retail pharmacies, commercial payers, and States in obtaining and disseminating such price information; and

"(III) collecting and reporting such price information on at least a monthly basis.

"(iii) ADDITIONAL PROVISIONS.—A contract with a vendor under this subparagraph shall include such terms and conditions as the Secretary shall specify, including the following:

"(I) The vendor must monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug available nationwide.

"(II) The vendor must update the Secretary no less often than monthly on the retail survey prices for multiple source drugs.

"(III) The vendor must apply methods for independently confirming retail survey prices.

"(iv) AVAILABILITY OF INFORMATION TO STATES.—Information on retail survey prices obtained under this subparagraph, including applicable information on single source drugs, shall be provided to States on an ongoing, timely basis.

"(D) STATE USE OF RETAIL SURVEY PRICE DATA.—

"(i) DISTRIBUTION OF PRICE DATA.—The Secretary shall devise and implement a means for electronic distribution to each State agency designated under section 1902(a)(5) with responsibility for the administration or supervision of the administration of the State plan under this title of the retail survey price determined under this paragraph.

"(ii) AUTHORITY TO ESTABLISH PAYMENT RATES BASED ON DATA.—A State may use the price data received in accordance with clause (i) in establishing payment rates for the ingredient costs and dispensing fees for covered outpatient drugs dispensed to individuals eligible for medical assistance under this title.

"(6) LIMITATION ON JUDICIAL REVIEW.—There shall be no administrative or judicial review of—

"(A) the Secretary's determinations of Federal upper limits, RAMPs, and volume weighted average RAMPs under this subsection, including the assignment of National Drug Codes to billing and payment classes;

"(B) the Secretary's disclosure to States of the average manufacturer prices, RAMPs, volume weighted average RAMPs, and retail survey prices;

"(C) determinations under this subsection by the Secretary of covered outpatient drugs which are dispensed by a specialty pharmacy or administered by a physician in a physician's office;

"(D) the contracting and calculations process under this subsection; and

"(E) the method to allocate rebates, chargebacks, and other price concessions to a quarter if specified by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) REPORTING RAMP-RELATED INFORMATION.—Subsection (b)(3)(A) of such section is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; and"; and

(C) by inserting after clause (iii) the following new clause:

"(iv) for calendar quarters beginning on or after July 1, 2006, in conjunction with reporting required under clause (i) and by National Drug Code (including package size)—

"(I) the manufacturer's RAMP (as defined in subsection (e)(2)(B)(i)) and the total number of units required to compute the volume weighted average RAMP under subsection (e)(2)(C);

"(II) if required to make payment under subsection (e)(2)(D), the manufacturer's wholesale acquisition cost, as defined in clause (ii) of such subsection; and

"(III) information on those sales that were made at a nominal price or otherwise described in subsection (e)(2)(B)(ii)(II);

for all covered outpatient drugs.".

(2) DISCLOSURE TO STATES.—Subsection (b)(3)(D) of such section is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ", and"; and

(C) by inserting after clause (iii) the following new clause:

"(iv) to States to carry out this title.".

(3) LIMITATIONS ON FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (10)(A), by striking "and" at the end;

(B) in paragraph (10)(B), by striking "or" at the end and inserting "and";

(C) by adding at the end of paragraph (10) the following:

"(C) with respect to any amount expended for the ingredient cost of a covered outpatient drug that exceeds the Federal upper limit for that drug established and applied under section 1927(e); or"; and

(D) in paragraph (21), as inserted by section 104(b) of Public Law 109–91, by inserting before the period at the end the following: "or described in subparagraph (B) or (C) of section 1927(d)(2)".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section take effect with respect to a State on the later of—

(1) January 1, 2007; or

(2) the date that is 6 months after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(d) GAO STUDY ON DISPENSING FEES, ESTIMATED PAYMENT AMOUNTS, AND PHARMACY ACQUISITION COSTS.—The Comptroller General of the United States shall conduct a study on the appropriateness in payment levels to pharmacies for dispensing fees under the medicaid program, including payment to specialty pharmacies, and on whether the estimated average payment amounts to pharmacies for covered outpatient drugs under the medicaid program after implementation of the amendments made by this section are below the average prices paid by pharmacies for acquiring such drugs. Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on such study.

(e) SECRETARIAL AUTHORITY TO DELAY IMPLEMENTATION.—The Secretary of Health and Human Services may delay the implementation of the amendments made by subsections (a) and (b)(3)(C) for a period of not more than 1 year, if the Comptroller General finds, in the study con-

ducted under subsection (d), that the estimated average payment amounts to pharmacies for covered outpatient drugs under the medicaid program after implementation of such amendments are below the average prices paid by pharmacies for acquiring such drugs. If the Secretary delays the implementation of such amendments under this subsection, the Secretary shall transmit to Congress, prior to the termination of the period of delay, a report containing specific recommendations for legislation to establish a more equitable payment system.

(f) IG REPORT ON USE OF RAMP AND RETAIL SURVEY PRICES.—Not later than 2 years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall submit to Congress a report on the appropriateness of using RAMPs and retail survey prices, rather than the average manufacturer prices or other price measures, as the basis for establishing a Federal upper limit for reimbursement for covered outpatient drugs under the medicaid program.

SEC. 3102. COLLECTION AND SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.

(a) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following new paragraph:

"(7) REQUIREMENT FOR SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.—

"(A) SINGLE SOURCE DRUGS.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered (as determined by the Secretary), and that is administered on or after January 1, 2006, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

"(B) MULTIPLE SOURCE DRUGS.—

"(i) IN GENERAL.—Not later than January 1, 2007, the information shall be submitted under subparagraph (A) using National Drug Code codes unless the Secretary specifies that an alternative coding system should be used.

"(ii) IDENTIFICATION OF MOST FREQUENTLY PHYSICIAN ADMINISTERED MULTIPLE SOURCE DRUGS.—Not later than January 1, 2007, the Secretary shall publish a list of the 20 physician administered multiple source drugs that the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year to reflect changes in such volume.

"(iii) REQUIREMENT.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a multiple source drug that is physician administered (as determined by the Secretary), that is on the list published under clause (ii), and that is administered on or after January 1, 2008, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the

drug in order to secure rebates under this section.

"(C) HARDSHIP WAIVER.—The Secretary may delay the application of subparagraph (A) or (B), or both, in the case of a State to prevent hardship to States which require additional time to implement the reporting system required under the respective subparagraph.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) of such Act (42 U.S.C. 1396b(i)(10)), as amended by section 3101(b)(3), is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking "or" at the end of subparagraph (C) and inserting "and"; and

(3) by adding at the end the following new subparagraph:

"(D) with respect to covered outpatient drugs described in section 1927(a)(7), unless information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or".

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.

(a) INCLUSION WITH OTHER REPORTED AVERAGE MANUFACTURER AND BEST PRICES.—Section 1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) not later than 30 days after the last day of each rebate period under the agreement—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the rebate period under the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

"(II) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application ap-

proved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drugs for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) CONFORMING AMENDMENTS.—Section 1927 of such Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by inserting after "or innovator multiple source drug of a manufacturer" the following: "(including any other such drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)"; and

(B) in clause (ii)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IV) in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall be inclusive of the lowest price for such authorized drug available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i)."; and

(2) in subsection (k)—

(A) in paragraph (1)—

(i) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term"; and

(ii) by adding at the end the following:

"(B) INCLUSION OF SECTION 505(c) DRUGS.—In the case of a manufacturer that approves, allows, or otherwise permits any drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such term shall be inclusive of the average price paid for such authorized drug by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.".

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

SEC. 3104. CHILDREN'S HOSPITAL PARTICIPATION IN SECTION 340B DRUG DISCOUNT PROGRAM.

(a) IN GENERAL.—Section 1927(a)(5)(B) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amended by inserting before the period at the end the following: "and a children's hospital described in section 1886(d)(1)(B)(iii) which meets the requirements of clauses (i) and (iii) of section 340B(b)(4)(L) of the Public Health Service Act and which would meet the requirements of clause (ii) of such

section if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under a State plan under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of the enactment of this Act.

SEC. 3105. IMPROVING PATIENT OUTCOMES THROUGH GREATER RELIANCE ON SCIENCE AND BEST PRACTICES.

(a) IN GENERAL.—Section 1927 of Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (d)(5)—

(A) in the matter before subparagraph (A), by striking "providing for such approval—" and inserting "providing for such approval meets the following requirements:";

(B) in subparagraph (A)—

(i) by inserting "The system" before "provides"; and

(ii) by striking "; and" and inserting a period;

(C) in subparagraph (B)—

(i) by striking "except" and inserting "Except"; and

(ii) by inserting "the system" before "provides"; and

(D) by adding at the end the following new subparagraphs:

"(C) The system provides that an atypical antipsychotic or antidepressant single source drug may be placed on a list of drugs subject to prior authorization only where a drug use review board has determined, based on the strength of the scientific evidence and standards of practice, including assessing peer-reviewed medical literature, pharmacoeconomic studies, outcomes research data and such other information as the board determines to be appropriate, that placing the drug on prior approval or otherwise imposing restrictions on its use is not likely to harm patients or increase overall medical costs.

"(D) The system provides that where a response is not received to a request for authorization of an atypical antipsychotic or antidepressant drug prescribed within 24 hours after the prescription is transmitted, payment is made for a 30 day supply of a medication that the prescriber certifies is medically necessary."; and

(2) in subsection (g)(3)(C), by inserting after clause (iii) the following new clause:

"(iv) The development and oversight of prior authorization programs described in subsection (d)(5).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2007.

CHAPTER 2—REFORM OF ASSET TRANSFER RULES

SEC. 3111. LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.

(a) LENGTHENING LOOK-BACK PERIOD FOR ALL DISPOSALS TO 5 YEARS.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting "or in the case of any other disposal of assets made on or after the date of the enactment of the Medicaid Reconciliation Act of 2005" before ", 60 months".

(b) CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking "(D) The date" and inserting "(D)(i) In the case of a transfer of asset made before the date of the enactment of the Medicaid Reconciliation Act of 2005, the date"; and

1 *(2) by adding at the end the following new*
2 *clause:*
3 *"(ii) In the case of a transfer of asset made on or after*
4 *the date of the enactment of the Medicaid Reconciliation*
5 *Act of 2005, the date specified in this subparagraph is the*
6 *first day of a month during or after which assets have been*
7 *transferred for less than fair market value, or the date on*
8 *which the individual is eligible for medical assistance under*
9 *the State plan and is receiving services described in sub-*
10 *paragraph (C) but for the application of the penalty period,*
11 *whichever is later, and which does not occur during any*
12 *other period of ineligibility under this subsection.".*
13 *(c) EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to transfers made on or after the date*
15 *of the enactment of this Act.*
16 *(d) AVAILABILITY OF HARDSHIP WAIVERS.—Each*
17 *State shall provide for a hardship waiver process in accord-*
18 *ance with section 1917(c)(2)(D) of the Social Security Act*
19 *(42 U.S.C. 1396p(c)(2)(D))—*
20 *(1) under which an undue hardship exists when*
21 *application of the transfer of assets provision would*
22 *deprive the individual—*
23 *(A) of medical care such that the individ-*
24 *ual's health or life would be endangered; or*

(B) of food, clothing, shelter, or other necessities of life; and

(2) which provides for—

(A) notice to recipients that an undue hardship exception exists;

(B) a timely process for determining whether an undue hardship waiver will be granted; and

(C) a process under which an adverse determination can be appealed.

(e) ADDITIONAL PROVISIONS ON HARDSHIP WAIVERS.—

(1) APPLICATION BY FACILITY.—Section 1917(c)(2) of the Social Security Act (42 U.S.C. 1396p(c)(2)) is amended—

(A) by striking the semicolon at the end of subparagraph (D) and inserting a period; and

(B) by adding after and below such subparagraph the following:

"The procedures established under subparagraph (D) shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the legal guardian of the individual.".

(2) AUTHORITY TO MAKE BED HOLD PAYMENTS FOR HARDSHIP APPLICANTS.—Such section is further amended by adding at the end the following: "While an application for an undue hardship waiver is pending under subparagraph (D) in the case of an individual who is a resident of a nursing facility, if the application meets such criteria as the Secretary specifies, the State may provide for payments for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of payments for 30 days.".

SEC. 3112. DISCLOSURE AND TREATMENT OF ANNUITIES AND OF LARGE TRANSACTIONS.

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) In order to meet the requirements of this section for purposes of section 1902(a)(18), a State shall require, as a condition for the provision of medical assistance for services described in subsection (c)(1)(C)(i) (relating to long-term care services) for an individual, the application of the individual for such assistance (including any recertification of eligibility for such assistance) shall disclose the following:

"(A) A description of any interest the individual or community spouse has in an annuity (or similar financial instrument which provides for the conversion of a countable asset to a noncountable asset, as may be specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset.

"(B) Full information (as specified by the Secretary) concerning any transaction involving the transfer or disposal of assets during the previous period of 60 months, if the transaction exceeded $100,000, without regard to whether the transfer or disposal was for fair market value. For purposes of applying the previous sentence under this subsection, all transactions of $5,000 or more occurring within a 12-month period shall be treated as a single transaction. The dollar amounts specified in the first and second sentences of this subparagraph shall be increased, beginning with 2007, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000 in the case of the first sentence and $100 in the case of the second sentence.

Such application or recertification form shall include a statement that under paragraph (2) the State becomes a remainder beneficiary under such an annuity or similar financial instrument by virtue of the provision of such medical assistance.

"(2)(A) In the case of any annuity in which an institutionalized individual or community spouse has an interest, if medical assistance is furnished to the individual for services described in subsection (c)(1)(C)(i), by virtue of the provision of such assistance the State becomes the remainder beneficiary in the first position for the total amount of such medical assistance paid on behalf of the individual under this title (or, where there is a community spouse or minor or disabled child in such first position, in the position immediately succeeding the position of such spouse or child or both).

"(B) In the case of disclosure concerning an annuity under paragraph (1)(A), the State shall notify the issuer of the annuity of the right of the State under subparagraph (A) as a preferred remainder beneficiary in the annuity for medical assistance furnished to the individual. Nothing in this paragraph shall be construed as preventing such an issuer from notifying persons with any other remainder interest of the State's remainder interest under subparagraph (A).

"(C) In the case of such an issuer receiving notice under subparagraph (B), the State may require the issuer to notify the State when there is a change in the amount of income or principal being withdrawn from the amount that was being withdrawn at the time of the most recent disclosure described in paragraph (1)(A). A State shall take such information into account in determining the amount of the State's obligations for medical assistance or in the individual's eligibility for such assistance.

"(3)(A) For purposes of subsection (c)(1), a transaction described in paragraph (1)(B) shall be deemed as the transfer of an asset for less than fair market value unless the individual demonstrates to the satisfaction of the State that the transfer of the asset was for fair market value.

"(B) The Secretary may provide guidance to States on categories of arms length transactions (such as the purchase of a commercial annuity) that could be generally treated as a transfer of asset for fair market value.

"(4) Nothing in this subsection shall be construed as preventing a State from denying eligibility for medical assistance for an individual based on the income or resources derived from an annuity described in paragraph (1)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions (including the purchase

of an annuity) occurring on or after the date of the enactment of this Act.

SEC. 3113. APPLICATION OF "INCOME-FIRST" RULE IN APPLYING COMMUNITY SPOUSE'S INCOME BEFORE ASSETS IN PROVIDING SUPPORT OF COMMUNITY SPOUSE.

(a) IN GENERAL.—Section 1924(d) of the Social Security Act (42 U.S.C. 1396r–5(d)) is amended by adding at the end the following new paragraph:

"(6) APPLICATION OF 'INCOME FIRST' RULE FOR FUNDING COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE.—For purposes of this subsection and subsection (e), any transfer or allocation made from an institutionalized spouse to meet the need of a community spouse for a community spouse monthly income allowance under paragraph (1)(B) shall be first made from income of the institutionalized spouse and then only when the income is not available from the resources of such institutionalized spouse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers and allocations made on or after the date of the enactment of this Act by individuals who become institutionalized spouses on or after such date.

SEC. 3114. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.

(a) IN GENERAL.—Section 1917 of the Social Security Act, as amended by section 3112, is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) Notwithstanding any other provision of this title, subject to paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance if the individual's equity interest in the individual's home exceeds $750,000. The dollar amount specified in the preceding sentence shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if—

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate

in such program) is blind or disabled as defined in section 1614,

is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006.

SEC. 3115. ENFORCEABILITY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC) AND LIFE CARE COMMUNITY ADMISSION CONTRACTS.

(a) ADMISSION POLICIES OF NURSING FACILITIES.—Section 1919(c)(5) of the Social Security Act (42 U.S.C. 1396r(c)(5)) is amended—

(1) in subparagraph (A)(i)(II), by inserting "subject to clause (v)," after "(II)"; and

(2) by adding at the end of subparagraph (B) the following new clause:

"(v) TREATMENT OF CONTINUING CARE RETIREMENT COMMUNITIES ADMISSION CONTRACTS.—Notwithstanding subclause (II) of subparagraph (A)(i), subject to subsections (c) and (d) of section 1924, contracts for admission to a State licensed, registered, certified, or equivalent continuing care retirement community or life care community, including services in a nursing facility that is part of such community, may require residents to spend on their care resources declared for the purposes of admission before applying for medical assistance.".

(b) TREATMENT OF ENTRANCE FEES.—Section 1917 of such Act (42 U.S.C. 1396p), as amended by sections 3112(a) and 3114(a), is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF ENTRANCE FEES OF INDIVIDUALS RESIDING IN CONTINUING CARE RETIREMENT COMMUNITIES.—

"(1) IN GENERAL.—For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the rules specified in paragraph (2) shall apply to individuals residing

in continuing care retirement communities or life care communities that collect an entrance fee on admission from such individuals.

"(2) TREATMENT OF ENTRANCE FEE.—For purposes of this subsection, an individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that—

"(A) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for such care;

"(B) the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

"(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.

"(3) TREATMENT IN RELATION TO SPOUSAL SHARE.—To the extent that an entrance fee is determined to be an available resource to an individual applying for medical assistance and the individual

has a community spouse as defined in section 1924(h), the entrance fee shall be considered in the computation of spousal share pursuant to section 1924(c).".

CHAPTER 3—FLEXIBILITY IN COST SHARING AND BENEFITS

SEC. 3121. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

"STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

"SEC. 1916A. (a) STATE FLEXIBILITY.—

"(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (and may vary such premiums and cost sharing among such groups or types, including through the use of tiered cost sharing for prescription drugs) consistent with the limitations established under this section. Nothing in this section shall be construed as superseding (or preventing the application of) section 1916(g).

"(2) DEFINITIONS.—In this section:

"(A) PREMIUM.—The term 'premium' includes any enrollment fee or similar charge.

"(B) COST SHARING.—The term 'cost sharing' includes any deduction, deductible, copayment, or similar charge.

"(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

"(1) INDIVIDUALS WITH FAMILY INCOME BELOW 100 PERCENT OF POVERTY LEVEL.—In the case of an individual whose family income does not exceed 100 percent of the Federal poverty level applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A), the limitations otherwise provided under subsections (a) and (b) of section 1916 shall continue to apply and no premium will be imposed under the plan, except that the total annual aggregate amount of cost sharing imposed (including any increased cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved for the year involved.

"(2) INDIVIDUALS WITH FAMILY INCOME ABOVE 100 PERCENT OF POVERTY LEVEL.—In the case of an individual whose family income exceeds 100 percent of the Federal poverty level applicable to a family of

the size involved, the total annual aggregate amount of premiums and cost sharing imposed (including any increase and cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved for the year involved.

"(3) ADDITIONAL LIMITATIONS.—

"(A) PREMIUMS.—No premiums shall be imposed under this section with respect to the following:

"(i) Individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including individuals with respect to whom adoption or foster care assistance is made available under part E of title IV without regard to age.

"(ii) Pregnant women.

"(iii) Any terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(iv) Any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such

individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(B) COST SHARING.—Subject to the succeeding provisions of this section, no cost sharing shall be imposed under this section with respect to the following:

"(i) Services furnished to individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including services furnished to individuals with respect to whom adoption or foster care assistance is made available under part E of title IV without regard to age.

"(ii) Preventive services (such as well baby and well child care and immunizations) provided to children under 18 years of age regardless of family income.

"(iii) Services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

"(iv) Services furnished to a terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(v) Services furnished to any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Emergency services (as defined by the Secretary for purposes of section 1916(a)(2)(D)).

"(vii) Family planning services and supplies described in section 1905(a)(4)(C).

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from exempting additional classes of individuals from premiums under this section or from exempting additional individuals or services from cost sharing under this section.

"(4) INDEXING NOMINAL AMOUNTS.—In applying section 1916 under paragraph (1) with respect to cost sharing that is 'nominal' in amount, the Secretary shall increase such 'nominal' amounts for each year (beginning with 2006) by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) as rounded up in an appropriate manner.

"(5) DETERMINATIONS OF FAMILY INCOME.—In applying this subsection, family income shall be determined in a manner specified by the State for purposes of this subsection, including the use of such disregards as the State may provide. Family income shall be determined for such period and at such periodicity as the State may provide under this title.

"(6) POVERTY LINE DEFINED.—For purposes of this section, the term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(7) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing a State from further limiting the premiums and cost sharing imposed

under this section beyond the limitations provided under this subsection;

"(B) as affecting the authority of the Secretary through waiver to modify limitations on premiums and cost sharing under this subsection; or

"(C) as affecting any such waiver of requirements in effect under this title before the date of the enactment of this section with regard to the imposition of premiums and cost sharing.

"(d) ENFORCEABILITY OF PREMIUMS AND OTHER COST SHARING.—

"(1) PREMIUMS.—Notwithstanding section 1916(c)(3) and section 1902(a)(10)(B), a State may, at its option, condition the provision of medical assistance for an individual upon prepayment of a premium authorized to be imposed under this section, or may terminate eligibility for such medical assistance on the basis of failure to pay such a premium but shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. A State may apply the previous sentence for some or all groups of beneficiaries as specified by the State and

may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(2) COST SHARING.—Notwithstanding section 1916(e) or any other provision of law, a State may permit a provider participating under the State plan to require, as a condition for the provision of care, items, or services to an individual entitled to medical assistance under this title for such care, items, or services, the payment of any cost sharing authorized to be imposed under this section with respect to such care, items, or services. Nothing in this paragraph shall be construed as preventing a provider from reducing or waiving the application of such cost sharing.".

(b) CONFORMING AMENDMENT.—Section 1916(f) of such Act (42 U.S.C. 1396o(f)) is amended by inserting "and section 1916A" after "(b)(3)".

(c) GAO STUDY OF IMPACT OF PREMIUMS AND COST SHARING.—The Comptroller General of the United States shall conduct a study on the impact of premiums and cost sharing under the medicaid program on access to, and utilization of, services. Not later than January 1, 2008, the Comptroller General shall submit to Congress a report on such study.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost sharing imposed for items and services furnished on or after January 1, 2006.

SEC. 3122. SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 3121, is amended by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) costly effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraphs (2) and (5), the State may—

"(A) provide an increase in cost sharing (above the nominal level otherwise permitted under section 1916 or subsection (b), but subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for preferred drugs within such

class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

"(2) LIMITATIONS.—

"(A) BY INCOME GROUP AS A MULTIPLE OF NOMINAL AMOUNTS.—In no case may the increase in cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed, in the case of an individual whose family income is—

"(i) below 100 percent of the poverty line applicable to a family of the size involved, the amount of nominal cost sharing (as otherwise determined under subsection (b));

"(ii) at least 100 percent, but below 150 percent, of the poverty line applicable to a family of the size involved, two times the amount of nominal cost sharing (as otherwise determined under subsection (b)); or

"(iii) at least 150 percent of the poverty line applicable to a family of the size involved, three times the amount of nominal

cost sharing (as otherwise determined under subsection (b)).

"(B) LIMITATION TO NOMINAL FOR EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing due to the application of subsection (b)(3), any increase in cost sharing under paragraph (1)(A) with respect to a non-preferred drug may not exceed a nominal amount (as otherwise determined under subsection (b)).

"(C) CONTINUED APPLICATION OF AGGREGATE CAP.—In addition to the limitations imposed under subparagraphs (A) and (B), any increase in cost sharing under paragraph (1)(A) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(D) TRICARE PHARMACY BENEFIT PROGRAM LIMITATIONS.—In no case may a State—

"(i) treat as a non-preferred drug under this subsection a drug that is treated as a preferred drug under the TRICARE pharmacy benefit program established under section 1074g of title 10, United

States Code, as such program is in effect on the date of the enactment of this section; or

"(ii) impose cost sharing under this subsection that exceeds the cost sharing imposed under the standards under such pharmacy benefit program, as such program is in effect as of the date of the enactment of this section.

"(3) WAIVER.—In carrying out paragraph (1), a State shall provide for the application of cost sharing levels applicable to a preferred drug in the case of a drug that is not a preferred drug if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both.

"(4) EXCLUSION AUTHORITY.—Nothing in this subsection shall be construed as preventing a State from excluding from paragraph (1) specified drugs or classes of drugs.

"(5) PRIOR AUTHORIZATION AND APPEALS PROCESS.—A State may not provide for increased cost sharing under this subsection unless the State has implemented for outpatient prescription drugs a system

for prior authorization and an appeals process for determinations relating to prior authorization.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost sharing imposed for items and services furnished on or after October 1, 2006.

SEC. 3123. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 3121 and as amended by section 3122, is further amended by adding at the end the following new subsection:

"(e) STATE OPTION FOR IMPOSING COST SHARING FOR NON-EMERGENCY CARE FURNISHED IN AN HOSPITAL EMERGENCY ROOM.—

"(1) IN GENERAL.—Notwithstanding section 1916 or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in a hospital emergency department under this subsection if the following conditions are met:

"(A) ACCESS TO NON-EMERGENCY ROOM PROVIDER.—The individual has actually avail-

able and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

"(B) NOTICE.—The physician or hospital must inform the beneficiary after the appropriate screening assessment, but before providing the non-emergency services, of the following:

"(i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

"(ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

"(iii) The fact that such alternate provider can provide the services without the imposition of the increase in cost sharing described in clause (i).

"(iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving)

cost sharing otherwise permissible under this section to services described in clause (iii).

"(2) LIMITATIONS.—

"(A) FOR POOREST BENEFICIARIES.—In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under this section, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

"(B) APPLICATION TO EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under subsection (b)) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

"(C) CONTINUED APPLICATION OF AGGREGATE CAP.—In addition to the limitations imposed under subparagraphs (A) and (B), any in-

crease in cost sharing under paragraph (1) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(3) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

"(B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

"(4) DETERMINATION STANDARD.—No hospital or physician that makes a determination with respect to the imposition of cost sharing under this subsection shall be liable in any civil action or proceeding for such determination absent a finding by clear and convincing evidence of gross negligence by the hospital or physician. The previous sentence shall not affect any liability under section 1867 or otherwise applicable under State law based upon the provision (or failure to provide) care.

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) NON-EMERGENCY SERVICES.—The term 'non-emergency services' means any care or services furnished in a emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and treatment screening required to be provided by the hospital under section 1867.

"(B) ALTERNATE NON-EMERGENCY SERVICES PROVIDER.—The term 'alternative non-emergency services provider' means, with respect to non-emergency services for the diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that provides clinically appropriate services for such diagnosis or treatment of the condition within a clinically appropriate time of the provision of such non-emergency services and that is participating in the program under this title.".

(b) GRANT FUNDS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—Section

1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x) PAYMENTS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—

"(1) PAYMENTS.—In addition to the payments otherwise provided under subsection (a), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(f)(5)(B)), or networks of such providers.

"(2) LIMITATION.—The total amount of payments under this subsection shall be equal to, and shall not exceed, $100,000,000 during the four-year period beginning with 2006. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(3) PREFERENCE.—In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that—

"(A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

"(B) are in partnership with local community hospitals.

"(4) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to non-emergency services furnished on or after the date of the enactment of this Act.

SEC. 3124. USE OF BENCHMARK BENEFIT PACKAGES.

Title XIX of the Social Security Act is amended by redesignating section 1936 as section 1937 and by inserting after section 1935 the following new section:

"STATE FLEXIBILITY IN BENEFIT PACKAGES

"SEC. 1936. (a) STATE OPTION OF PROVIDING BENCHMARK BENEFITS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, a State, at its option

as a State plan amendment, may provide for medical assistance under this title to individuals within one or more groups of individuals specified by the State through enrollment in coverage that provides—

"(i) benchmark coverage described in subsection (b)(1) and, for a qualifying child, benchmark dental coverage as defined in subparagraph (F); or

"(ii) benchmark equivalent coverage described in subsection (b)(2)and, for a qualifying child, benchmark dental coverage as defined in subparagraph (F).

"(B) LIMITATION.—The State may only exercise the option under subparagraph (A) for eligibility categories that had been established before the date of the enactment of this section.

"(C) OPTION OF WRAP-AROUND BENEFITS.—In the case of coverage described in subparagraph (A), a State, at its option, may provide such wrap-around or additional benefits as the State may specify.

"(D) TREATMENT AS MEDICAL ASSISTANCE.—Payment of premiums for such coverage under this subsection shall be treated as payment

of other insurance premiums described in the third sentence of section 1905(a).

"(E) QUALIFYING CHILD DEFINED.—For purposes of subparagraph (A), the term 'qualifying child' means a child under 18 years of age with a family income below 133 percent of the poverty line applicable to a family of the size involved.

"(F) BENCHMARK DENTAL COVERAGE.—For purposes of subparagraph (A), the term 'benchmark dental coverage' means, with respect to a State, dental benefits coverage that is equivalent to or better than the dental coverage offered under the dental benefit plan that covers the greatest number of individuals in the State who are not entitled to medical assistance under this title.

"(2) APPLICATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State may require that a full-benefit eligible individual (as defined in subparagraph (C)) within a group obtain benefits under this title through enrollment in coverage described in paragraph (1)(A). A State may

apply the previous sentence to individuals within one or more groups of such individuals.

"(B) LIMITATION ON APPLICATION.—A State may not require under subparagraph (A) an individual to obtain benefits through enrollment described in paragraph (1)(A) if the individual is within one of the following categories of individuals:

"(i) MANDATORY PREGNANT WOMEN AND CHILDREN.—The individual is a pregnant woman or child under 18 years of age who is required to be covered under the State plan under section 1902(a)(10)(A)(i).

"(ii) DUAL ELIGIBLES.—The individual is entitled to benefits under any part of title XVIII.

"(iii) TERMINALLY ILL HOSPICE PATIENTS.—The individual is terminally ill and is receiving benefits for hospice care under this title.

"(iv) ELIGIBLE ON BASIS OF INSTITUTIONALIZATION.—The individual is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and is

required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(v) MEDICALLY FRAIL AND SPECIAL MEDICAL NEEDS INDIVIDUALS.—The individual is medically frail or otherwise an individual with special medical needs (as identified in accordance with regulations of the Secretary).

"(vi) BENEFICIARIES QUALIFYING FOR LONG-TERM CARE SERVICES.—The individual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

"(C) FULL-BENEFIT ELIGIBLE INDIVIDUALS.—

"(i) IN GENERAL.—For purposes of this paragraph, subject to clause (ii), the term 'full-benefit eligible individual' means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the

State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

"(ii) EXCLUSION OF MEDICALLY NEEDY AND SPEND-DOWN POPULATIONS.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise eligible based on a reduction of income based on costs incurred for medical or other remedial care.

"(b) BENCHMARK BENEFIT PACKAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), each of the following coverage shall be considered to be benchmark coverage:

"(A) FEHBP-EQUIVALENT HEALTH INSURANCE COVERAGE.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(B) STATE EMPLOYEE COVERAGE.—A health benefits coverage plan that is offered and

generally available to State employees in the State involved.

"(C) COVERAGE OFFERED THROUGH HMO.—The health insurance coverage plan that—

"(i) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(ii) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(2) BENCHMARK-EQUIVALENT COVERAGE.—For purposes of subsection (a)(1), coverage that meets the following requirement shall be considered to be benchmark-equivalent coverage:

"(A) INCLUSION OF BASIC SERVICES.—The coverage includes benefits for items and services within each of the following categories of basic services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.

"(iii) Laboratory and x-ray services.

"(iv) Well-baby and well-child care, including age-appropriate immunizations.

"(v) Other appropriate preventive services, as designated by the Secretary.

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages described in paragraph (1).

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the following categories of additional services for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package:

"(i) Coverage of prescription drugs.

"(ii) Mental health services.

"(iii) Vision services.

1 *"(iv) Hearing services.*

2 *"(3) DETERMINATION OF ACTUARIAL VALUE.—*
3 *The actuarial value of coverage of benchmark benefit*
4 *packages shall be set forth in an actuarial opinion in*
5 *an actuarial report that has been prepared—*

6 *"(A) by an individual who is a member of*
7 *the American Academy of Actuaries;*

8 *"(B) using generally accepted actuarial*
9 *principles and methodologies;*

10 *"(C) using a standardized set of utilization*
11 *and price factors;*

12 *"(D) using a standardized population that*
13 *is representative of the population involved;*

14 *"(E) applying the same principles and fac-*
15 *tors in comparing the value of different coverage*
16 *(or categories of services);*

17 *"(F) without taking into account any dif-*
18 *ferences in coverage based on the method of deliv-*
19 *ery or means of cost control or utilization used;*
20 *and*

21 *"(G) taking into account the ability of a*
22 *State to reduce benefits by taking into account*
23 *the increase in actuarial value of benefits cov-*
24 *erage offered under this title that results from the*
25 *limitations on cost sharing under such coverage.*

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(4) COVERAGE OF RURAL HEALTH CLINIC AND FQHC SERVICES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark equivalent coverage under this section unless—

"(A) the individual has access, through such coverage or otherwise, to services described in subparagraphs (B) and (C) of section 1905(a)(2); and

"(B) payment for such services is made in accordance with the requirements of section 1902(bb).".

SEC. 3125. STATE OPTION TO ESTABLISH NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) at the option of the State and notwithstanding paragraph (10)(B) or (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

"(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

"(B) may be conducted under contract with a broker who—

"(i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

"(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

"(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

"(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

(c) IG REPORT ON UTILIZATION.—Not later than January 1, 2007, the Inspector General of the Department of Health and Human Services shall submit to Congress a report that examines the non-emergency medical transportation brokerage programs implemented under section 1902(a)(68) of the Social Security Act, as inserted by subsection (a). The report shall include findings regarding conflicts of interest and improper utilization of transportation

services under such programs, as well as recommendations for improvements in such programs.

SEC. 3126. EXEMPTING WOMEN COVERED UNDER BREAST OR CERVICAL CANCER PROGRAM.

Notwithstanding any other provision of law, none of provisions of the previous sections of this chapter, or amendments made by such sections, shall apply to women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII), 1396a(aa)).

CHAPTER 4—EXPANDED ACCESS TO CERTAIN BENEFITS

SEC. 3131. EXPANDED ACCESS TO HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY AND DISABLED.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (27), by striking "and" at the end;

(2) by redesignating paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27) the following new paragraph:

"(28) subject to section 1902(cc), home and community-based services (within the scope of services described in paragraph (4)(B) of section 1915(c) for which the Secretary has the authority to approve a waiver and not including room and board) provided pursuant to a written plan of care for individuals—

"(A) who are 65 years of age or older, who are disabled (as defined under the State plan), who are persons with developmental disabilities or mental retardation or persons with related conditions, or who are within a subgroup thereof under the State plan;

"(B) with respect to whom there has been a determination, in the manner described in paragraph (1) of such section, that but for the provision of such services the individuals would require the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan; and

"(C) who qualify for medical assistance under the eligibility standards in effect in the State (which may include standards in effect under an approved waiver) as of the date of the enactment of this paragraph; and".

(b) CONDITIONS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(cc) PROVISION OF HOME AND COMMUNITY-BASED SERVICES UNDER STATE PLAN.—

"(1) CONDITIONS.—A State may provide home and community-based services under section 1905(a)(28), other than through a waiver or demonstration project under section 1915 or 1115, only if the following conditions are met:

"(A) EXPIRATION OF PREVIOUS WAIVER.—Any State waiver or demonstration project under either such section with respect to services for individuals described in such section has expired.

"(B) INFORMATION.—The State must monitor and report to the Secretary, in a form and manner specified by the Secretary and on a quarterly basis, enrollment and expenditures for provision of such services under such section.

"(2) OPTIONS.—Notwithstanding any other provision of this title, in a State's provision of services under section 1905(a)(28)—

"(A) a State is not required to comply with the requirements of section 1902(a)(1) (relating

to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community);

"(B) a State may limit the number of individuals who are eligible for such services and may establish waiting lists for the receipt of such services; and

"(C) a State may limit the amount, duration, and scope of such services.

Nothing in this section shall be construed as applying the previous sentence to any items or services other than home and community-based services provided under section 1905(a)(28).

"(3) USE OF ELECTRONIC DATA.—The State shall permit health care providers to comply with documentation and data requirements imposed with respect to home and community-based services through the maintenance of data in electronic form rather than in paper form.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to home and community-based services furnished on or after October 1, 2006.

SEC. 3132. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES (CASH AND COUNSELING).

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(i)(1) A State may provide, as 'medical assistance', payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under subsection (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

"(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

"(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided

services under the program, and to assure financial accountability for funds expended with respect to such services.

"(B) The State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

"(ii) may require self-directed personal assistance services; and

"(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

"(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State's self-directed personal assistance services program, at the choice of such individuals, to the provision of personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

"(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

"(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

"(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

"(4)(A) For purposes of this subsection, the term 'self-directed personal assistance services' means personal care and related services, or home and community-based services otherwise available under the plan under this title or subsection (c), that are provided to an eligible participant under a self-directed personal assistance services program

under this section, under which individuals, within an approved self-directed services plan and budget, purchase personal assistance and related services, and permits participants to hire, fire, supervise, and manage the individuals providing such services.

"(B) At the election of the State—

"(i) a participant may choose to use any individual capable of providing the assigned tasks including legally liable relatives as paid providers of the services; and

"(ii) the individual may use the individual's budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

"(5) For purpose of this section, the term 'approved self-directed services plan and budget' means, with respect to a participant, the establishment of a plan and budget for the provision of self-directed personal assistance services, consistent with the following requirements:

"(A) SELF-DIRECTION.—The participant (or in the case of a participant who is a minor child, the participant's parent or guardian, or in the case of an incapacitated adult, another individual recognized by

State law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider, and location of service provision.

"(B) ASSESSMENT OF NEEDS.—There is an assessment of the needs, strengths, and preferences of the participants for such services.

"(C) SERVICE PLAN.—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

"(i) builds upon the participant's capacity to engage in activities that promote community life and that respects the participant's preferences, choices, and abilities; and

"(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.

"(D) SERVICE BUDGET.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid,

reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

"(E) APPLICATION OF QUALITY ASSURANCE AND RISK MANAGEMENT.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant's resources and capabilities.

"(6) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management entity shall be at the administrative rate established in section 1903(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2006.

SEC. 3133. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

(1) in clause (ii), by inserting "or which has a State plan amendment that provides for a qualified State long-term care insurance partnership (as defined in clause (iii))" after "1993,"; and

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

"(iii) For purposes of this paragraph, the term 'qualified State long-term care insurance partnership' means an approved State plan amendment under this title that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy (including a certificate issued under a group insurance contract), if the following requirements are met:

"(I) The policy covers an insured who was a resident of such State when coverage first became effective under the policy.

"(II) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986)

issued on or after the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary.

"(III) If the policy does not provide some level of inflation protection, the insured was offered, before the policy was sold, a long-term care insurance policy that provides some level of inflation protection.

"(IV) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training or demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

"(V) The issuer of the policy provides regular reports to the Secretary that include, in accordance with regulations of the Secretary (promulgated after consultation with the States), notification regarding when all benefits provided under the policy have been paid and the amount of such benefits paid, when the policy otherwise

terminates, and such other information as the Secretary determines may be appropriate to the administration of such partnerships.

"(VI) The State does not impose any requirement affecting the terms or benefits of such a policy unless the State imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

In the case of a long-term care insurance policy which is exchanged for another such policy, subclause (I) shall be applied based on the coverage of the first such policy that was exchanged.

"(iv) The Secretary—

"(I) as appropriate, shall provide copies of the reports described in clause (iii)(V) to the State involved; and

"(II) shall promote the education of consumers regarding qualified State long-term care insurance partnerships.

"(v) The Secretary, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, the National Association of Insurance Commissioners, and State insurance commissioners,

shall develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified State long-term care insurance partnerships to a secure, centralized electronic query and report-generating mechanism that the State, the Secretary, and other Federal agencies can access.''.

(b) CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as affecting the treatment of long-term care insurance policies that will be, are, or were provided under a State plan amendment described in section 1917(b)(1)(C)(ii) of the Social Security Act that was approved as of May 14, 1993.

(c) EFFECTIVE DATE.—A State plan amendment that provides for a qualified State long-term care insurance partnership under the amendments made by subsection (a) may provide that such amendment is effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary of Health and Human Services.

(d) STANDARDS FOR RECIPROCAL RECOGNITION AMONG PARTNERSHIP STATES.—In order to permit port-

ability in long-term care insurance policies purchased under State long-term care insurance partnerships, the Secretary of Health and Human Services may develop, in consultation with the States and the National Association of Insurance Commissioners, uniform standards for reciprocal recognition of such policies among States with qualified State long-term care insurance partnerships.

SEC. 3134. HEALTH OPPORTUNITY ACCOUNTS.

Title XIX of the Social Security Act, as amended by section 3124, is amended—

(1) by redesignating section 1937 as section 1938; and

(2) by inserting after section 1936 the following new section:

"HEALTH OPPORTUNITY ACCOUNTS

"SEC. 1937. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall establish a demonstration program under which States may provide under their State plans under this title (including such a plan operating under a statewide waiver under section 1115) in accordance with this section for the provision of alternative benefits consistent with subsection (c) for eligible population groups in one or more geographic areas of the State specified by the State. An amendment under the previous sentence

is referred to in this section as a 'State demonstration program'.

"(2) INITIAL DEMONSTRATION.—The demonstration program under this section shall begin on January 1, 2006. During the first 5 years of such program, the Secretary shall not approve more than 10 State demonstration programs, with each State demonstration program covering one or more geographic areas specified by the State. After such 5-year period—

"(A) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that a State demonstration program previously implemented has been unsuccessful, such a demonstration program may be extended or made permanent in the State; and

"(B) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that all State demonstration programs previously implemented were unsuccessful, other States may implement State demonstration programs.

"(3) APPROVAL.—The Secretary shall not approve a State demonstration program under paragraph (1) unless the program includes the following:

"(A) Creating patient awareness of the high cost of medical care.

"(B) Providing incentives to patients to seek preventive care services.

"(C) Reducing inappropriate use of health care services.

"(D) Enabling patients to take responsibility for health outcomes.

"(E) Providing enrollment counselors and ongoing education activities.

"(F) Providing transactions involving health opportunity accounts to be conducted electronically and without cash.

"(G) Providing access to negotiated provider payment rates consistent with this section.

Nothing in this section shall be construed as preventing a State demonstration program from providing incentives for patients obtaining appropriate preventive care (as defined for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986), such as additional account contributions for an individual demonstrating healthy prevention practices.

"(4) NO REQUIREMENT FOR STATEWIDENESS.—Nothing in this section or any other provision of law shall be construed to require that a State must provide for the implementation of a State demonstration program on a Statewide basis.

"(5) REPORTS.—The Secretary shall periodically submit to Congress reports regarding the success of State demonstration programs.

"(b) ELIGIBLE POPULATION GROUPS.—

"(1) IN GENERAL.—A State demonstration program under this section shall specify the eligible population groups consistent with paragraphs (2) and (3).

"(2) ELIGIBILITY LIMITATIONS DURING INITIAL DEMONSTRATION PERIOD.—During the initial 5 years of the demonstration program under this section, a State demonstration program shall not apply to any of the following individuals:

"(A) Individuals who are 65 years of age or older.

"(B) Individuals who are disabled, regardless of whether or not their eligibility for medical assistance under this title is based on such disability.

"(C) Individuals who are eligible for medical assistance under this title only because they are (or were within the previous 60 days) pregnant.

"(D) Individuals who have been eligible for medical assistance for a continuous period of less than 3 months.

"(3) ADDITIONAL LIMITATIONS.—A State demonstration program shall not apply to any individual within a category of individuals described in section 1936(a)(2)(B).

"(4) LIMITATIONS.—

"(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

"(B) ON ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in medicaid managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to any such organization:

"(i) In no case may the number of such individuals enrolled in the organization who participate in the program exceed 5 percent of the total number of individuals enrolled in such organization.

"(ii) The proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

"(iii) The State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likely use of health services between enrollees who so participate and enrollees who do not so participate.

"(5) VOLUNTARY PARTICIPATION.—An eligible individual shall be enrolled in a State demonstration program only if the individual voluntarily enrolls. Except in such hardship cases as the Secretary shall specify, such an enrollment shall be effective for a period of 12 months, but may be extended for additional periods of 12 months each with the consent of the individual.

"(c) ALTERNATIVE BENEFITS.—

"(1) IN GENERAL.—The alternative benefits provided under this section shall consist, consistent with this subsection, of at least—

"(A) coverage for medical expenses in a year for items and services for which benefits are otherwise provided under this title after an annual deductible described in paragraph (2) has been met; and

"(B) contribution into a health opportunity account.

Nothing in subparagraph (A) shall be construed as preventing a State from providing for coverage of preventive care (referred to in subsection (a)(3)) within the alternative benefits without regard to the annual deductible.

"(2) ANNUAL DEDUCTIBLE.—The amount of the annual deductible described in paragraph (1)(A) shall be at least 100 percent, but no more than 110 percent, of the annualized amount of contributions to the health opportunity account under subsection (d)(2)(A)(i), determined without regard to any limitation described in subsection (d)(2)(C)(i)(II).

"(3) ACCESS TO NEGOTIATED PROVIDER PAYMENT RATES.—

"(A) FEE-FOR-SERVICE ENROLLEES.—In the case of an individual who is participating in a State demonstration program and who is not enrolled with a medicaid managed care organization, the State shall provide that the individual may obtain demonstration program medicaid services from—

"(i) any participating provider under this title at the same payment rates that would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable; or

"(ii) any provider at payment rates that do not exceed 125 percent of the payment rate that would be applicable to such services furnished by a participating provider under this title if the deductible described in paragraph (1)(A) was not applicable.

"(B) TREATMENT UNDER MEDICAID MANAGED CARE PLANS.—In the case of an individual who is participating in a State demonstration program and is enrolled with a medicaid managed care organization, the State shall enter into an arrangement with the organization under

which the individual may obtain demonstration program medicaid services from any provider under such organization at payment rates that do not exceed the payment rate that would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable.

"(C) COMPUTATION.—The payment rates described in subparagraphs (A) and (B) shall be computed without regard to any cost sharing that would be otherwise applicable under sections 1916 and 1916A.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'demonstration program medicaid services' means, with respect to an individual participating in a State demonstration program, services for which the individual would be provided medical assistance under this title but for the application of the deductible described in paragraph (1)(A).

"(ii) The term 'participating provider' means—

"(I) with respect to an individual described in subparagraph (A), a

health care provider that has entered into a participation agreement with the State for the provision of services to individuals entitled to benefits under the State plan; or

"(II) with respect to an individual described in subparagraph (B) who is enrolled in a medicaid managed care organization, a health care provider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

"(4) NO EFFECT ON SUBSEQUENT BENEFITS.—Except as provided under paragraphs (1) and (2), alternative benefits for an eligible individual shall consist of the benefits otherwise provided to the individual, including cost sharing relating to such benefits.

"(5) OVERRIDING COST SHARING AND COMPARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions of this title relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual deductible under paragraph (1)(A)

applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the provision of alternative benefits (as described in this subsection).

"(6) TREATMENT AS MEDICAL ASSISTANCE.—Subject to subparagraphs (D) and (E) of subsection (d)(2), payments for alternative benefits under this section (including contributions into a health opportunity account) shall be treated as medical assistance for purposes of section 1903(a).

"(7) USE OF TIERED DEDUCTIBLE AND COST SHARING.—

"(A) IN GENERAL.—A State—

"(i) may vary the amount of the annual deductible applied under paragraph (1)(A) based on the income of the family involved so long as it does not favor families with higher income over those with lower income; and

"(ii) may vary the amount of the maximum out-of-pocket cost sharing (as defined in subparagraph (B)) based on the income of the family involved so long as it does not favor families with higher income over those with lower income.

"(B) MAXIMUM OUT-OF-POCKET COST SHARING.—For purposes of subparagraph (A)(ii), the term 'maximum out-of-pocket cost sharing' means, for an individual or family, the amount by which the annual deductible level applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the individual or family.

"(8) CONTRIBUTIONS BY EMPLOYERS.—Nothing in this section shall be construed as preventing an employer from providing health benefits coverage consisting of the coverage described in paragraph (1)(A) to individuals who are provided alternative benefits under this section.

"(d) HEALTH OPPORTUNITY ACCOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'health opportunity account' means an account that meets the requirements of this subsection.

"(2) CONTRIBUTIONS.—

"(A) IN GENERAL.—No contribution may be made into a health opportunity account except—

"(i) contributions by the State under this title; and

"(ii) contributions by other persons and entities, such as charitable organizations.

"(B) STATE CONTRIBUTION.—A State shall specify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account.

"(C) LIMITATION ON ANNUAL STATE CONTRIBUTION PROVIDED AND PERMITTING IMPOSITION OF MAXIMUM ACCOUNT BALANCE.—

"(i) IN GENERAL.—A State—

"(I) may impose limitations on the maximum contributions that may be deposited under subparagraph (A)(i) into a health opportunity account in a year;

"(II) may limit contributions into such an account once the balance in the account reaches a level specified by the State; and

"(III) subject to clauses (ii) and (iii) and subparagraph (D)(i), may not provide contributions described in subparagraph (A)(i) to a health opportunity account on behalf of an indi-

vidual or family to the extent the amount of such contributions (including both State and Federal shares) exceeds, on an annual basis, $2,500 for each individual (or family member) who is an adult and $1,000 for each individual (or family member) who is a child.

"(ii) INDEXING OF DOLLAR LIMITATIONS.—For each year after 2006, the dollar amounts specified in clause (i)(III) shall be annually increased by the Secretary by a percentage that reflects the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

"(iii) BUDGET NEUTRAL ADJUSTMENT.—A State may provide for dollar limitations in excess of those specified in clause (i)(III) (as increased under clause (ii)) for specified individuals if the State provides assurances satisfactory to the Secretary that contributions otherwise made to other individuals will be reduced in a manner so as to provide for aggregate contribu-

tions that do not exceed the aggregate contributions that would otherwise be permitted under this subparagraph.

"(D) LIMITATIONS ON FEDERAL MATCHING.—

"(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) amounts to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal financial participation shall be provided under section 1903(a) with respect to contributions in excess of such limitations.

"(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—No Federal financial participation shall be provided under section 1903(a) with respect to any contributions described in subparagraph (A)(ii) to a health opportunity account.

"(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures made from a health opportunity account for medical care for which the Federal matching rate under section 1903(a) exceeds the Federal medical assist-

ance percentage, a State may obtain payment under such section at such higher matching rate for such expenditures.

"(3) USE.—

"(A) GENERAL USES.—

"(i) IN GENERAL.—Subject to the succeeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the State specifies.

"(ii) GENERAL LIMITATION.—In no case shall such account be used for payment for health care expenditures that are not payment of medical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

"(iii) STATE RESTRICTIONS.—In applying clause (i), a State may restrict payment for—

"(I) providers of items and services to providers that are licensed or otherwise authorized under State law to provide the item or service and may deny payment for such a provider on the basis that the provider has been

found, whether with respect to this title or any other health benefit program, to have failed to meet quality standards or to have committed one or more acts of fraud or abuse; and

"(II) items and services insofar as the State finds they are not medically appropriate or necessary.

"(iv) ELECTRONIC WITHDRAWALS.—The State demonstration program shall provide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit withdrawals from the account in cash.

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(I) no additional contribution shall be made into the account under paragraph (2)(A)(i);

"(II) subject to clause (iii), the balance in the account shall be reduced by 25 percent; and

"(III) subject to the succeeding provisions of this subparagraph, the account shall remain available to the account holder for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits.

"(ii) SPECIAL RULES.—Withdrawals under this subparagraph from an account—

"(I) shall be available for the purchase of health insurance coverage; and

"(II) may, subject to clause (iv), be made available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the State (and approved by the Secretary) as the State may specify.

"(iii) EXCEPTION FROM 25 PERCENT SAVINGS TO GOVERNMENT FOR PRIVATE CONTRIBUTIONS.—Clause (i)(II) shall not apply to the portion of the account that is attributable to contributions described in paragraph (2)(A)(ii). For purposes of accounting for such contributions, withdrawals from a health opportunity account shall first be attributed to contributions described in paragraph (2)(A)(i).

"(iv) CONDITION FOR NON-HEALTH WITHDRAWALS.—No withdrawal may be made from an account under clause (ii)(II) unless the accountholder has participated in the program under this section for at least 1 year.

"(v) NO REQUIREMENT FOR CONTINUATION OF COVERAGE.—An account holder of a health opportunity account, after becoming ineligible for medical assistance under this title, is not required to purchase high-deductible or other insurance as a condition of maintaining or using the account.

"(4) ADMINISTRATION.—A State may coordinate administration of health opportunity accounts

through the use of a third party administrator and reasonable expenditures for the use of such administrator shall be reimbursable to the State in the same manner as other administrative expenditures under section 1903(a)(7).

"(5) TREATMENT.—Amounts in, or contributed to, a health opportunity account shall not be counted as income or assets for purposes of determining eligibility for benefits under this title.

"(6) UNAUTHORIZED WITHDRAWALS.—A State may establish procedures—

"(A) to penalize or remove an individual from the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

"(B) to recoup costs that derive from such nonqualified withdrawals.".

CHAPTER 5—OTHER PROVISIONS

SEC. 3141. INCREASE IN MEDICAID PAYMENTS TO INSULAR AREAS.

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by inserting "and subject to paragraph (3)" after "subsection (f)"; and

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

"(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN INSULAR AREAS.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal year 2006 and fiscal year 2007 shall be increased by the following amounts:

"(A) For Puerto Rico, $12,000,000 for fiscal year 2006 and $12,000,000 for fiscal year 2007.

"(B) For the Virgin Islands, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(C) For Guam, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(D) For the Northern Mariana Islands, $1,000,000 for fiscal year 2006 and $2,000,000 for fiscal year 2007.

"(E) For American Samoa, $2,000,000 for fiscal year 2006 and $4,000,000 for fiscal year 2007.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal year 2007 but shall be taken into account in applying such paragraph for fiscal year 2008 and subsequent fiscal years.".

SEC. 3142. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall be effective as of the date of the enactment of this Act.

(2) GRANDFATHER.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State that has had approved as of the date of the enactment of this Act a provider tax on services described in section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by subsection (a), such amendment shall be effective as of October 1, 2008.

(B) TRANSITION RULE FOR FISCAL YEAR 2009.—In the case of a State described in subparagraph (A), the amount of any reduction in payment under subsection (a)(1) of section 1903

of the Social Security Act (42 U.S.C. 1396b) that would otherwise be required under subsection (w) of such section for calendar quarters in fiscal year 2009 because of the amendment made by section (a) shall be reduced by one-half.

SEC. 3143. MEDICAID TRANSFORMATION GRANTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 3123, is amended by adding at the end the following new subsection:

"(y) MEDICAID TRANSFORMATION PAYMENTS.—

"(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to paragraph (4), the Secretary shall provide for payments to States for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under this title.

"(2) PERMISSIBLE USES OF FUNDS.—The following are examples of innovative methods for which funds provided under this subsection may be used:

"(A) Methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs.

"(B) Methods for improving rates of collection from estates of amounts owed under this title.

"(C) Methods for reducing waste, fraud, and abuse under the program under this title, such as reducing improper payment rates as measured by annual payment error rate measurement (PERM) project rates.

"(D) Implementation of a medication risk management program as part of a drug use review program under section 1927(g).

"(E) Methods in reducing, in clinically appropriate ways, expenditures under this title for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use of education programs and other incentives to promote greater use of generic drugs.

"(3) APPLICATION; TERMS AND CONDITIONS.—

"(A) IN GENERAL.—No payments shall be made to a State under this subsection unless the State applies to the Secretary for such payments in a form, manner, and time specified by the Secretary.

"(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

"(C) ANNUAL REPORT.—Payment to a State under this subsection is conditioned on the State submitting to the Secretary an annual report on the programs supported by such payment. Such report shall include information on—

"(A) the specific uses of such payment;

"(B) an assessment of quality improvements and clinical outcomes under such programs; and

"(C) estimates of cost savings resulting from such programs.

"(4) FUNDING.—

"(A) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

"(i) $50,000,000 for fiscal year 2007; and

"(ii) $50,000,000 for fiscal year 2008. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the

payment of amounts provided under this subsection.

"(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds made available under this subsection among States. Such method shall provide preference for States that design programs that target health providers that treat significant numbers of medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

"(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

"(5) MEDICATION RISK MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'medication risk management program' means a program for targeted beneficiaries that ensures that covered outpatient drugs are appropriately used to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events.

"(B) ELEMENTS.—Such program may include the following elements:

"(i) The use of established principles and standards for drug utilization review and best practices to analyze prescription drug claims of targeted beneficiaries and identify outlier physicians.

"(ii) On an ongoing basis provide outlier physicians—

"(I) a comprehensive pharmacy claims history for each targeted beneficiary under their care;

"(II) information regarding the frequency and cost of relapses and hospitalizations of targeted beneficiaries under the physician's care; and

"(III) applicable best practice guidelines and empirical references.

"(iii) Monitor outlier physician's prescribing, such as failure to refill, dosage strengths, and provide incentives and information to encourage the adoption of best clinical practices.

"(C) TARGETED BENEFICIARIES.—For purposes of this paragraph, the term 'targeted beneficiaries' means medicaid eligible beneficiaries who are identified as having high prescription drug costs and medical costs, such as individuals with behavioral disorders or multiple chronic diseases who are taking multiple medications.".

SEC. 3144. ENHANCING THIRD PARTY IDENTIFICATION AND PAYMENT.

(a) CLARIFICATION OF THIRD PARTIES LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", including self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "health maintenance organizations, pharmacy benefit man-

agers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service"; and

(2) in subparagraph (G)—

(A) by inserting "a self-insured plan," after "1974,"; and

(B) by striking "and a health maintenance organization" and inserting "a health maintenance organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service".

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has

in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, health maintenance organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide eligibility and claims payment data with respect to an individual who is eligible for, or is provided, medical assistance under the State plan, upon the request of the State;

"(ii) accept the subrogation of the State to any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service submitted not later than 3 years after the date of the

provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim;".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on January 1, 2006.

(2) DELAYED EFFECTIVE DATE.—In the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

SEC. 3145. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91—

(A) by striking the period at the end of paragraph (21) and inserting "; or"; and

(B) by inserting after paragraph (21) the following new paragraph:

"(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (z) is met."; and

(2) by adding at the end, as amended by sections 3123 and 3143, the following new subsection:

"(z)(1) For purposes of subsection (i)(22), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3)) of the individual.

"(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

"(A) and is entitled to or enrolled for benefits under any part of title XVIII;

"(B) on the basis of receiving supplemental security income benefits under title XVI; or

"(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

"(3)(A) For purposes of this subsection, the term 'satisfactory documentary evidence of citizenship or nationality' means—

"(i) any document described in subparagraph (B); or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

"(B) The following are documents described in this subparagraph:

"(i) A United State passport.

"(ii) Form N–550 or N–570 (Certificate of Naturalization).

"(iii) Form N–560 or N–561 (Certificate of United States Citizenship).

"(iv) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

"(C) The following are documents described in this subparagraph:

"(i) A certificate of birth in the United States.

"(ii) Form FS–545 or Form DS–1350 (Certification of Birth Abroad).

"(iii) Form I–97 (United States Citizen Identification Card).

"(iv) Form FS–240 (Report of Birth Abroad of a Citizen of the United States).

"(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

"(D) The following are documents described in this subparagraph:

"(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

"(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

"(E) A reference in this paragraph to a form includes a reference to any successor form.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met.

SEC. 3146. REFORMS OF TARGETED CASE MANAGEMENT.

(a) IN GENERAL.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)) is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection:

"(A)(i) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

"(ii) Such term includes the following:

"(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

"(aa) Taking client history.

"(bb) Identifying the needs of the individual, and completing related documentation.

"(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual.

"(II) Development of a specific care plan based on the information collected through an assessment, that specifies the goals and actions to address the medical, social, educational, and other services needed by the eligible individual, including activities such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

"(III) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational providers or other

programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

"(IV) Monitoring and follow-up activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

"(aa) whether services are being furnished in accordance with an individual's care plan;

"(bb) whether the services in the care plan are adequate; and

"(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

"(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has

been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

"(I) Research gathering and completion of documentation required by the foster care program.

"(II) Assessing adoption placements.

"(III) Recruiting or interviewing potential foster care parents.

"(IV) Serving legal papers.

"(V) Home investigations.

"(VI) Providing transportation.

"(VII) Administering foster care subsidies.

"(VIII) Making placement arrangements.

"(B) The term 'targeted case management services' means case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

"(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part

of the target population specified in the State plan, such contacts—

"(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual's care; and

"(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

"(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

"(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A–87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SEC. 3147. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.

(a) IN GENERAL.—Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—Any provider of emergency services that does not have in effect a contract with a medicaid managed care entity that establishes payment amounts for services furnished to a beneficiary enrolled in the entity's medicaid managed care plan must accept as payment in full the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that it could collect if the beneficiary received medical assistance under this title other than through enrollment in such an entity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007.

SEC. 3148. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the Federal medical assistance percentage under section

1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) for a State for a fiscal year (beginning with fiscal year 2006), any significantly disproportionate employer pension contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION CONTRIBUTION.—For purposes of subsection (a), a significantly disproportionate employer pension contribution described in this subsection with respect to a State for a fiscal year is an employer contribution towards pensions that is allocated to such State for a period if the aggregate amount so allocated exceeds 50 percent of the total increase in personal income in that State for the period involved.

Subtitle B—Katrina Health Care Relief

SEC. 3201. TARGETED MEDICAID RELIEF FOR STATES AFFECTED BY HURRICANE KATRINA.

(a) 100 PERCENT FEDERAL MATCHING PAYMENTS FOR MEDICAL ASSISTANCE PROVIDED IN KATRINA IMPACTED AREAS.—

(1) IN GENERAL.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), for items and services furnished during the

period that begins on August 28, 2005, and ends on May 15, 2006, the Federal matching rate for providing medical assistance for such items and services under a State Medicaid plan to any individual residing in a Katrina impacted parish or county (as defined in subsection (c)(1)) or to a Katrina Survivor (as defined in subsection (b)), and for costs directly attributable to all administrative activities that relate to the provision of such medical assistance, shall be 100 percent.

(2) APPLICATION TO CHILD HEALTH ASSISTANCE.—Notwithstanding section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)), for items and services furnished during the period described in paragraph (1), the Federal matching rate for providing child health assistance for such items and services under a State child health plan under title XXI of such Act in a Katrina impacted parish or county or to a Katrina Survivor, and for costs directly attributable to all administrative activities that relate to the provision of such child health assistance, shall be 100 percent.

(b) KATRINA SURVIVOR.—For purposes of subsection (a), the term "Katrina Survivor" means an individual who, on any day during the week preceding August 28,

2005, had a primary residence in a major disaster parish or county (as defined in subsection (c)).

(c) DEFINITIONS.—For purposes of this section:

(1) KATRINA IMPACTED PARISH OR COUNTY.—The term "Katrina impacted parish or county" means any parish in the State of Louisiana, any county in the State of Mississippi, and any major disaster parish or county in the State of Alabama.

(2) MAJOR DISASTER PARISH OR COUNTY.—A major disaster parish or county is a parish of the State of Louisiana or a county of the State of Mississippi or Alabama for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, as of September 14, 2005, warrants individual assistance from the Federal Government under such Act.

SEC. 3202. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.

There are hereby authorized and appropriated $90,000,000 for fiscal year 2006 for grants under subsection (b)(1) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45). The amount so appropriated shall be

treated as if it had been appropriated under subsection (c)(2) of such section.

SEC. 3203. RECOMPUTATION OF HPSA, MUA, AND MUP DESIGNATIONS WITHIN HURRICANE KATRINA AFFECTED AREAS.

(a) IN GENERAL.—For purposes of the Public Health Service Act (42 U.S.C. 201 et seq.), the Secretary of Health and Human Services shall conduct a review of all Hurricane Katrina disaster areas and, as appropriate taking into account the lack of availability of health care providers and services due to Hurricane Katrina—

(1) shall designate such areas as health professional shortage areas or medically underserved areas; and

(2) shall designate one of more populations of each such area as a medically underserved population.

(b) HURRICANE KATRINA DISASTER AREA DEFINED.—For purposes of this section, the term "Hurricane Katrina disaster area" means an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before

September 14, 2005, warrants individual and public assistance from the Federal Government under such Act.

SEC. 3204. WAIVER OF CERTAIN REQUIREMENTS APPLICABLE TO THE PROVISION OF HEALTH CARE IN AREAS IMPACTED BY HURRICANE KATRINA.

(a) ELIGIBLE AREA.—

(1) DEFINITION.—In this section, the term "eligible area" means an area identified by the Secretary of Health and Human Services pursuant to paragraph (2).

(2) IDENTIFICATION.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall identify areas that—

(A) have been directly impacted by Hurricane Katrina; or

(B) are located in a State which has absorbed a significant number of Hurricane Katrina evacuees.

(b) HEALTH CENTERS.—For the purpose of determining whether an entity located in an eligible area qualifies as a health center under section 330 of the Public Health Service Act (42 U.S.C. 254b):

(1) BOARD COMPOSITION.—

(A) WAIVER.—The Secretary of Health and Human Services shall waive any requirement that a majority of the governing board of the entity be consumers of the entity's health care services.

(B) RULE OF CONSTRUCTION.—This paragraph shall not be construed as requiring the Secretary of Health and Human Services to waive a requirement that the governing board of the entity include representation of the consumers of the entity's health care services.

(2) MEDICALLY UNDERSERVED POPULATION.—

(A) DETERMINATION.—At the request of the entity, the Secretary of Health and Human Services shall determine whether, taking into consideration any change in population associated with Hurricane Katrina, the entity serves a medically underserved population (as that term is defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3))).

(B) DEADLINE.—The Secretary of Health and Human Services shall make a determination under subparagraph (A) not later than 60 days after the date on which the Secretary receives the request for the determination.

(C) RESTRICTION.—The Secretary of Health and Human Services shall not make any determination under this paragraph on whether a population has ceased to qualify as a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254b).

(3) REQUIRED PRIMARY HEALTH SERVICES.—The Secretary of Health and Human Services shall waive any requirement for the entity to provide primary health services described in clause (iii), (iv), or (v) of section 330(b)(1) of the Public Health Service Act (42 U.S.C. 254b(b)(1)).

(c) NATIONAL HEALTH SERVICE CORPS.—Notwithstanding the provisions of subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) requiring that members of the National Health Service Corps be assigned to health professional shortage areas, the Secretary of Health and Human Services may assign members of the National Health Service Corps to any eligible area.

(d) TERMINATION OF AUTHORITY.—The authority vested by this section in the Secretary of Health and Human Services and the Secretary of Homeland Security shall terminate on the date that is 2 years after enactment of this Act. The Secretary of Health and Human Services

may not grant any waiver under subsection (b)(1) or (b)(3) and may not make any assignment of personnel under subsection (c), and the Secretary of Homeland Security may not allow any agreement under subsection (d), for a period extending beyond such date.

SEC. 3205. FMAP HOLD HARMLESS FOR KATRINA IMPACT.

Notwithstanding any other provision of law, for purposes of titles XIX and XXI of the Social Security Act, the Secretary of Health and Human Services in computing the Federal medical assistance percentage under section 1905(b) of such (42 U.S.C. 1396d(b)) for any year after 2006 for a State that the Secretary determines has a significant number of evacuees who were evacuated to, and live in, the State as a result of Hurricane Katrina as of October 1, 2005, the Secretary shall disregard such evacuees (and income attributable to such evacuees).

Subtitle C—Katrina and Rita Energy Relief

SEC. 3301. HURRICANES KATRINA AND RITA ENERGY RELIEF.

(a) FINDINGS.—The Congress finds the following:

(1) Hurricanes Katrina and Rita severely disrupted crude oil and natural gas production in the Gulf of Mexico. The Energy Information Administration estimates that as a result of these two hurricanes,

the amount of shut in crude oil production nearly doubled to almost 1,600,000 barrels per day, and the amount of natural gas production shut in also doubled to about 8,000,000,000 cubic feet per day. The hurricanes also initially shut down most of the crude oil refinery capacity in the Gulf of Mexico region. These disruptions led to significantly higher prices for crude oil, refined oil products, and natural gas.

(2) These production and supply disruptions are expected to lead to significantly higher heating costs for consumers this winter. The Energy Information Administration projects an increase in residential natural gas heating expenditures of 32 percent to 61 percent over last winter, with the Midwest seeing the largest increase. Winter heating oil expenditures are projected to increase by 30 percent to 41 percent over last winter, again with the Midwest seeing the largest increase. Propane expenditures for home heating are projected to increase 20 percent to 36 percent over last winter, with the Midwest seeing the largest projected increase. Expenditures for home heating using electricity are expected to increase by 2 percent to 9 percent over last winter, with the South seeing the largest increase. Overall, average home heating expenditures this winter are projected to increase about 33 percent,

assuming a normal winter. These significant increases in home heating costs this winter will particularly harm low-income consumers. The Low-Income Home Energy Assistance Program is designed to assist these low income consumers in this situation. Accordingly, Congress seeks a one-time only supplement to the Low-Income Home Energy Assistance Program fund to assist low income consumers with the additional home heating expenditures that they will face this winter as a result of Hurricanes Katrina and Rita.

(b) RELIEF.—In addition to amounts otherwise made available, there shall be directly available to the Secretary of Health and Human Services for a 1-time only obligation and expenditure $1,000,000,000 for fiscal year 2006 for allocation under section 2604(a) through (d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a) through (d)), for the sole purpose of providing assistance to offset the anticipated higher energy costs caused by Hurricane Katrina and Hurricane Rita.

(c) SUNSET.—The provisions of this section shall terminate, be null and void, and have no force and effect whatsoever after September 30, 2006. No monies provided for under this section shall be available after such date.

Subtitle D—Digital Television Transition

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the "Digital Television Transition Act of 2005".

SEC. 3402. FINDINGS.

The Congress finds the following:

(1) A loophole in current law is stalling the digital television (DTV) transition and preventing the return of spectrum for critical public safety and wireless broadband uses.

(A) In 1996, to facilitate the DTV transition, Congress gave each full-power television broadcaster an extra channel of spectrum to broadcast in digital format while continuing to broadcast in analog format on its original channel. Each broadcaster was supposed to eventually return either the original or additional channel and broadcast exclusively in digital format on the remaining channel.

(B) In 1997, Congress earmarked for public safety use some of the spectrum the broadcasters are supposed to return. Congress designated the rest of the spectrum to be auctioned for advanced commercial applications, such as wireless

broadband services. Congress set December 31, 2006, as the deadline for broadcasters to return the spectrum for public safety and wireless use.

(C) A loophole, however, allows broadcasters in a market to delay the return of the spectrum until more than 85 percent of television households in that market have at least one television with access to digital broadcast channels using a digital television receiver, a digital-to-analog converter box, or cable or satellite service. Experts forecast it will take many more years to meet the 85-percent test nationwide.

(2) Eliminating the 85-percent test and setting a "hard deadline" will close the loophole, making possible the nationwide clearing necessary to complete the DTV transition and free the spectrum for public safety use.

(A) Some police officers, firefighters, and rescue personnel already have equipment to communicate over the spectrum the broadcasters are supposed to return, and are just awaiting the turnover. Many more public safety officials cannot purchase equipment or begin planning without a date certain for the availability of the spectrum.

(B) Five years to the day before September 11, 2001, an advisory committee report to the Federal Communications Commission (FCC) noted that public safety officials desperately needed more spectrum to better communicate with each other in times of emergency. The 9/11 Commission has specifically recognized the importance of clearing for public safety use the spectrum at issue here, especially following the terrorist attacks on the Pentagon and the World Trade Center. The spectrum is also important for communications during natural disasters.

(3) The certainty of a nationwide hard deadline will enable consumers, industry, and government to take the necessary steps to make the transition as smooth as possible.

(A) Under existing law, once a market meets the 85-percent penetration test, the remaining 15 percent of households in the market would lose access to broadcast programming unless they obtain a digital television receiver, a digital-to-analog converter box, or cable or satellite service.

(B) Determining when the 85-percent test in current law has been met in a particular

market would be extremely difficult for the FCC to accomplish. Moreover, because no one can predict precisely when any market will meet the 85-percent test, and because different markets will meet the test at different times, consumers, industry, and government cannot adequately plan on a either a local or nationwide basis.

(C) With a hard deadline, government, industry, and consumer groups can develop concrete plans for consumer education. Manufacturers can build large quantities of low-cost digital-to-analog converter boxes for consumers who wish to continue using their analog televisions. Clearing the spectrum on a unified, nationwide basis will also enable the government to maximize the revenue from the auction. Some of that revenue can be used to help make the converter boxes available.

(D) The deadline will have little impact on most television households. The vast majority of households already subscribe to cable or satellite services. Allowing cable and satellite operators to convert digital broadcasts into an analog-viewable format will enable their subscribers that

wish to continue using analog televisions to do so.

(4) Setting a hard deadline will bring consumers and the economy the benefits of the DTV transition faster.

(A) DTV offers sharper and wider pictures, and CD-quality sound. Even consumers with analog televisions connected to a converter box or cable or satellite service will receive better service than they did before the transition.

(B) Once the transition is complete, broadcasters can redirect the resources they currently expend running both analog and digital stations and focus on programming that capitalizes on the advanced features of digital transmissions. Manufacturers can also increase the production of televisions and other consumer electronics equipment that takes advantage of these features, which will also drive down prices.

(C) The cleared spectrum can be used to bring cutting-edge wireless services to public safety officials and consumers. This spectrum travels greater distances at lower costs, and more easily penetrates buildings and foliage. Consequently, it is ideal to bring mobile broadband

services not only to urban areas, but to rural areas as well, which currently have very few cost-effective broadband options.

(D) The increase in DTV programming, services, and equipment, and the provision of products and services that use the cleared spectrum, will improve America's global competitiveness and result in significant investment and innovation, boosting our economy and fostering new jobs.

SEC. 3403. ANALOG SPECTRUM RECOVERY: HARD DEADLINE.

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A), by striking "December 31, 2006" and inserting "December 31, 2008";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "subparagraph (C)(i)" and inserting "subparagraph (B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) IMPLEMENTATION.—

(1) DTV ALLOTMENT TABLE OF IN-CORE CHANNELS FOR FULL-POWER STATIONS.—The Federal Communications Commission shall—

(A) release by December 31, 2006, a report and order in MB Docket No. 03–15 assigning all full-power broadcast television stations authorized in the digital television service a channel between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive);

(B) release by July 31, 2007, any reconsideration of such report and order; and

(C) not adopt any further changes between July 31, 2007, and January 1, 2009, to the channels assigned to full-power broadcast television stations for the provision of digital television service unless doing so is necessary for reasons of public safety or necessary to prevent a delay in the end of broadcasting by full-power stations in the analog television service.

(2) STATUS REPORTS.—Beginning with a report on January 31, 2006, and ending with a report on July 31, 2007, the Commission shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Com-

merce, Science, and Transportation of the Senate every six months on the status of international coordination with Canada and Mexico of the digital television service table of allotments.

(3) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary to terminate all licenses for full-power television stations in the analog television service and to require the cessation of broadcasting by full-power stations in the analog television service by January 1, 2009.

(4) ADDITIONAL UNLICENSED SPECTRUM FOR WIRELESS BROADBAND.—The Commission shall, within one year after the date of enactment of this Act, issue a final order in the matter of Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186).

(c) TECHNICAL AMENDMENT.—Paragraph (15) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), as added by section 203(b) of the Commercial Spectrum Enhancement Act (Public Law 108–494; 118 Stat. 3993), is redesignated as paragraph (16) of such section.

SEC. 3404. AUCTION OF RECOVERED SPECTRUM.

(a) DEADLINE FOR AUCTION.—Section 309(j)(15)(C) of the Communications Act of 1934 (47 U.S.C.

309(j)(15)(C)) is amended by adding at the end the following new clauses:

"(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 7, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(i) not later than June 30, 2008.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term 'recovered analog spectrum' means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

"(I) the spectrum required by section 337 to be made available for public safety services; and

"(II) the spectrum auctioned prior to the date of enactment of the

Digital Television Transition Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Paragraph (11) of section 309(j) of such Act is repealed.

(c) STUDY OF AUCTION AUTHORITY.—

(1) INQUIRY AND STUDY REQUIRED.—Within 120 days after the date of enactment of this Act, the Federal Communications Commission shall initiate an ongoing inquiry and study—

(A) to evaluate the participation of women, minorities, and small businesses in the auction process, including the percentage of winning bidders that are women, minorities, and small businesses; and

(B) to assess the efforts made by the Commission to ensure that women, minorities, and small businesses are able to successfully participate in the auction process.

(2) REPORT.—The Commission shall submit a report to the Congress on the results of the inquiry and study required by paragraph (1) at least biennially beginning not later than one year after the date of enactment of this Act.

SEC. 3405. DIGITAL TELEVISION CONVERSION FUND.

(a) RESERVATION OF AUCTION PROCEEDS TO ASSIST CONVERSION.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or subparagraph (D)" and inserting "subparagraphs (B), (D), and (E)";

(2) in subparagraph (C)(i), by inserting before the semicolon at the end the following: ", except as otherwise provided in subparagraph (E)(i)"; and

(3) by adding at the end the following new subparagraph:

"(E) TRANSFER OF REVENUES FOR DIGITAL TELEVISION CONVERSION.—

"(i) PROCEEDS FOR DTV CONVERSION FUND.—Notwithstanding subparagraph (A), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum—

"(I) $990,000,000 shall be deposited in a separate fund in the Treasury to be known as the 'Digital Television Conversion Fund', and be available exclusively to carry out section 159 of the

National Telecommunications and Information Administration Organization Act;

"(II) $500,000,000 shall be deposited in a separate fund in the Treasury to be known as the 'Public Safety Interoperable Communications Fund', and be available exclusively to carry out section 160 of such Act;

"(III) $30,000,000 shall be deposited in a separate fund in the Treasury to be known as the 'NYC 9/11 Digital Transition Fund', and be available exclusively to carry out section 161 of such Act;

"(IV) $3,000,000 shall be deposited in a separate fund in the Treasury to be known as the 'Low-Power Digital-to-Analog Conversion Fund', and be available exclusively to carry out section 162 of such Act; and

"(V) the remainder of such proceeds shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

"(ii) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term 'recovered analog spectrum' has the meaning provided in paragraph (15)(C)(vi).".

(b) CONVERTER BOX PROGRAM.—Part C of the National Telecommunications and Information Administration Organization Act is amended by adding at the end the following new section:

"SEC. 159. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

"(a) CREATION OF PROGRAM.—The Assistant Secretary—

"(1) shall use the funds available under subsection (d) of this section to implement and administer a program through which households in the United States may obtain, upon request, up to two coupons that can be applied toward the purchase of digital-to-analog converter boxes, subject to the restrictions in this section and the regulations created thereunder; and

"(2) may award one or more contracts (including a contract with another Federal agency) for the administration of some or all of the program.

"(b) PROGRAM SPECIFICATIONS.—

"(1) FORM OF COUPON REQUEST.—The regulations under this section shall prescribe the contents of

the coupon request form and the information any household seeking a coupon shall provide on the form. The coupon request form shall be required to include instructions for its use and also describe, at a minimum, the requirements and limitations of the program, the ways in which the form and the information the household provides will be used, and to whom the form and the information will be disclosed.

"(2) DISTRIBUTION OF COUPON REQUEST FORMS.—

"(A) PAPER AND ELECTRONIC FORMS.—The Assistant Secretary shall provide for the distribution of paper coupon request forms at Government buildings, including post offices. The Assistant Secretary shall provide for the availability to households of electronic coupon request forms, and may permit such forms to be submitted electronically.

"(B) ADDITIONAL DISTRIBUTION.—If the Assistant Secretary determines that doing so would make the program more successful and easier for consumers to participate in, paper and electronic coupon request forms shall also be distributed by such private entities as the Assistant Secretary shall specify (such as retailers, manu-

facturers, broadcasters, religious organizations, and consumer groups) and shall be distributed in the manner specified by the Assistant Secretary.

"(3) LIMITATIONS.—

"(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons only by making a request as required by the regulations under this section. Any request must be made between January 1, 2008, and January 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household receives no more than two coupons.

"(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

"(C) DURATION.—All coupons shall expire 3 months after issuance.

"(4) DISTRIBUTION OF COUPONS.—

"(A) Coupons shall be distributed to requesting households by mail and each coupon shall be issued in the name of a member of the requesting household, and shall include a unique identification number as well as any other meas-

ures the Assistant Secretary deems necessary to minimize fraud, counterfeiting, duplication, and other unauthorized use.

"(B) Included on or provided with each coupon shall be, at a minimum, instructions for the coupon's use and a description of the coupon's limitations.

"(C) The Assistant Secretary shall expend not more than $160,000,000 on administrative expenses and shall ensure that the sum of all administrative expenses for the program and the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

"(D) The Assistant Secretary may expend up to $5,000,000 of the administrative expenses on the public outreach program required by section 330(d)(4) of the Communications Act of 1934 (47 U.S.C. 330(d)(4)). Such funds may be used for grants to the Association of Public Television Stations, in partnership with noncommercial educational television broadcast stations (as defined section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6))) to carry out such public outreach.

"(5) QUALIFYING PURCHASES.—

"(A) QUALIFYING BOX.—The regulations shall specify methods for determining and identifying the converter boxes that meet the definition in subsection (g).

"(B) COUPON VALUE.—The value of each coupon shall be $40.

"(6) REDEMPTION OF COUPONS.—No coupon shall be redeemed except upon submission of reasonable proof that the individual redeeming the coupon is the individual named on the coupon, and such additional information as is required by the regulations under this section. In the case of retail distribution of digital-to-analog converter boxes over the Internet or by telephone, submission of a valid credit card number issued in the name of the household member, the unique identification number on the coupon, the address of the household, and such other information as is required by the regulations under this section shall be reasonable proof of identity, except that the redemption of coupons over the Internet or by telephone shall be prohibited if the Assistant Secretary determines that such redemption would be unreasonably susceptible to fraud or other abuse.

"(7) RETAILER CERTIFICATION.—

"(A) Any retailer desiring to qualify for coupon reimbursement under this section shall, in accordance with the regulations under this section, be required to undergo a certification process to qualify for participation in the program.

"(B) As part of the certification process, retailers shall be informed of the program's details and their rights and obligations, including their obligations to honor all valid coupons that are tendered in the authorized manner, and to keep a reasonable number of eligible converter boxes in stock.

"(8) COUPON REIMBURSEMENT AND RETAILER AUDITING.—

"(A) REIMBURSEMENT.—The regulations under this section shall establish the process by which retailers may seek and obtain reimbursement for the coupons, and shall include the option for retailers to seek and obtain reimbursement electronically.

"(B) AUDITS.—Such regulations shall establish procedures for the auditing of retailer reimbursements.

"(9) APPEALS.—The regulations under this section shall establish an appeals process for the review and resolution of complaints—

"(A) by a household alleging that—

"(i) the household was improperly denied a coupon;

"(ii) a valid coupon properly tendered was not honored; or

"(iii) the household was otherwise harmed by another violation of this section or such regulations; or

"(B) by a retailer of digital-to-analog converter boxes alleging that the retailer was improperly denied reimbursement for a valid coupon properly tendered and accepted under this section or such regulations.

All such complaints shall be resolved within 30 days after receipt of the complaint.

"(10) ENFORCEMENT.—The regulations under this section shall provide for the termination of eligibility to participate in the program for retailers or households that engage in fraud, misrepresentation, or other misconduct in connection with the program, or that otherwise violate this section or such regulations.

"(11) PROGRESS REPORT.—Beginning with a report on March 31, 2008, and ending with a report on June 30, 2009, the Assistant Secretary shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, every three months summarizing the progress of coupon distribution and redemption, including how many coupons are being distributed and redeemed, and how quickly.

"(c) PRIVACY.—The program under this section shall ensure that personally identifiable information collected in connection with the program under this section is not used or shared for any other purpose than as described in this section, except as otherwise required or authorized by law. For purposes of this subsection, the term 'personally identifiable information' shall have the same meaning as provided in section 338(i)(2).

"(d) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—From the Digital Television Conversion Fund established by section 309(j)(8)(E)(i)(I) of the Communications Act of 1934, there shall be available to carry out this section such sums as may be necessary for fiscal years 2008 and 2009. Any sums that remain unexpended in the Fund

at the end of fiscal year 2009 shall revert to and be deposited in the general fund of the Treasury.

"(2) CREDIT.—The Assistant Secretary may borrow from the Treasury such sums as may be necessary not to exceed $990,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Conversion Fund under section 309(j)(8)(E) of such Act.

"(e) ENERGY STANDARDS REQUIRED.—

"(1) STANDARD.—The maximum energy consumption for the passive standby mode of a digital-to-analog converter box shall be no more than 9 watts.

"(2) ENFORCEMENT.—The Secretary of Energy shall enforce the requirements of paragraph (1). Any converter box that the Secretary of Energy determines is not in compliance with the requirements of paragraph (1) shall not be eligible for purchase with assistance made available under this section.

"(3) PREEMPTION.—No State or any political subdivision thereof may establish or enforce any law, rule, regulation, or other provision having the force of law that regulates the energy output, usage, or con-

sumption standards for a digital-to-analog converter box.

"(f) IMPLEMENTATION.—The Secretary of Commerce shall promulgate, within 9 months after the date of enactment of the Digital Television Transition Act of 2005, such regulations as are necessary to carry out this section.

"(g) DEFINITION.—For purposes of this section:

"(1) DIGITAL-TO-ANALOG CONVERTER BOX.—The term 'digital-to-analog converter box' means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service.

"(2) HOUSEHOLD.—The term 'household' means the residents at a residential street or rural route address, and shall not include a post office box.

"(3) STANDBY PASSIVE MODE.—The term 'standby passive mode' means a low power state the digital-to-analog converter device enters while connected to a power source which fulfills not the main function but can be switched into another mode by means of an internal or external signal.".

SEC. 3406. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS FUND.

Part C of the National Telecommunications and Information Administration Organization Act is amended by adding after section 159 (as added by section 3405(b) of this Act) the following new section:

"SEC. 160. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS FUND.

"(a) PROGRAM AUTHORIZED.—From the funds available under subsection (f), the Assistant Secretary shall carry out a grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with communications systems that can utilize, reallocated public safety spectrum for radio communications.

"(b) TERMS AND CONDITIONS OF GRANTS.—In order to obtain a grant under this section, a public safety agency shall—

"(1) submit an application to the Assistant Secretary at such time, in such form, and containing or accompanied by such information and assurances as the Assistant Secretary shall require;

"(2) agree that, if awarded a grant, the public safety agency will submit annual reports to the As-

sistant Secretary for the duration of the grant award period with respect to—

"(A) the expenditure of grant funds; and

"(B) progress toward acquiring and deploying interoperable communications systems funded by the grant;

"(3) agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems acquired and deployed with funds provided under this section; and

"(4) agree to remit to the Assistant Secretary any grant funds that remain unexpended at the end of the 3-year period of the grant.

"(c) DURATION OF GRANT; RECOVERY OF UNUSED FUNDS.—Grants under this section shall be awarded in the form of a single grant for a period of not more that 3 years. At the end of 3 years, any grant funds that remain unexpended shall be remitted by the grantee to the Assistant Secretary, and, subject to subsection (f)(2), may be awarded to other eligible grant recipients. At the end of fiscal year 2010, any such reawarded grant funds that remain unexpended shall be remitted by the grantee to the Assistant Secretary and may not be reawarded to other grantees.

"(d) OVERSIGHT OF EXPENDITURES.—The Assistant Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce, not later than 6 months after the first award of a grant under this section and every 6 months thereafter until October 1, 2010, a report—

"(1) identifying, on a State-by-State basis, using the information submitted under subsection (b)(2), the results of the program, including an identification, on a State-by-State basis, of—

"(A) the public safety agencies awarded a grant;

"(B) the amount of the grant;

"(C) the specified use for the grant; and

"(D) how each such grant was spent; and

"(2) stating the cumulative total of the amount of grants awarded, and the balance, if any, remaining in the Public Safety Interoperable Communications Fund; and

"(3) in the final such report, stating the amount in the Fund that reverted to the general fund of the Treasury.

"(e) REGULATIONS.—The Secretary is authorized to prescribe such regulations as are necessary to carry out this section.

"(f) AVAILABILITY OF FUNDS.—

"(1) AVAILABILITY.—From the Public Safety Interoperable Communications Fund established by section 309(j)(8)(E)(i)(II) of the Communications Act of 1934, there shall be available to carry out this section such sums as may be necessary for fiscal years 2008, 2009, and 2010.

"(2) REVERSION.—Any sums that remain unexpended in the Fund at the end of fiscal year 2010 shall revert to and be deposited in the general fund of the Treasury.

"(g) DEFINITIONS.—For purposes of this section:

"(1) PUBLIC SAFETY AGENCY.—The term 'public safety agency' means any State or local government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

"(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term 'interoperable communications systems' means communications systems which enable public safety agencies to share information amongst local, State, and Federal public safety agencies in the same area via voice or data signals.

"(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term 'reallocated public safety spectrum'

means the bands of spectrum located at 764 -776 megahertz and 794–806 megahertz, inclusive.".

SEC. 3407. NYC 9/11 DIGITAL TRANSITION FUND.

Part C of the National Telecommunications and Information Administration Organization Act is amended by adding after section 160 (as added by section 3406 of this Act) the following new section:

"SEC. 161. NYC 9/11 DIGITAL TRANSITION FUND.

"(a) FUNDS AVAILABLE.—From the NYC 9/11 Digital Transition Fund established by section 309(j)(8)(E)(i)(III) of the Communications Act of 1934, there shall be available to carry out this section such sums as may be necessary for fiscal years 2006 through 2008. Any sums that remain unexpended in the Fund at the end of fiscal year 2008 shall revert to and be deposited in the general fund of the Treasury. The Assistant Secretary may borrow from the Treasury such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the NYC 9/11 Digital Transition Fund under section 309(j)(8)(E) of such Act.

"(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan

Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the Federal Communications Commission's authority with respect to licensing and interference regulation.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'Metropolitan Television Alliance' means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

"(2) The term 'New York City area' means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union and Hudson Counties) .".

SEC. 3408. LOW-POWER TELEVISION TRANSITION PROVISIONS.

(a) REMOVAL AND RELOCATION.—Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended—

(1) in paragraph (1), by striking "person who" and inserting "full-power television station licensee that";

(2) in paragraph (2), by striking "746 megahertz" and inserting "698 megahertz"; and

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

"(3) CONTINUATION OF LOW-POWER BROADCASTING.—Subject to section 336(f) of the Communications Act (47 U.S.C. 336(f)), a low-power television station, television translator station, or television booster station (as defined by Commission regulations) may operate above 698 megahertz on a secondary basis in accordance with Commission rules, including rules governing completion of the digital television service transition for low-power broadcasters.".

(b) EXEMPTION FROM DEADLINE.—Section 309(j)(14)(A) of such Act (47 U.S.C. 309(j)(14)(A)) is amended by inserting "full-power" before "television broadcast license".

(c) ADVANCED TELEVISION SERVICES.—Section 336(f)(4) of such Act (47 U.S.C. 336(f)(4)) is amended by inserting "or other low-power station" after "television translator station" in the first sentence.

(d) LOW-POWER TELEVISION DIGITAL-TO-ANALOG CONVERSION.—Part C of the National Telecommunications and Information Administration Organization Act is amended by adding after section 161 (as added by section 3407 of this Act) the following new section:

"SEC. 162. LOW-POWER TELEVISION DIGITAL-TO-ANALOG CONVERSION.

"(a) CREATION OF PROGRAM.—The Assistant Secretary shall use the funds available under subsection (d) from the Low-Power Digital-to-Analog Conversion Fund to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before December 31, 2008.

"(b) ELIGIBLE STATIONS.—For purposes of this section, an eligible low-power television station shall be a low-power television broadcast station, Class A television station, television translator station, or television booster station—

"(1) that is itself broadcasting exclusively in analog format; and

"(2) that has not purchased a digital-to-analog conversion device prior to enactment of this section.

"(c) QUALIFYING DEVICES AND AMOUNTS.—The Assistant Secretary—

"(1) may determine the types of digital-to-analog conversion devices for which an eligible low-power broadcast television station may receive compensation under this section; and

"(2) shall determine the maximum amount of compensation such a low-power television broadcast station may receive based on the average cost of such digital-to-analog conversion devices during the time period such low-power broadcast television station purchased the digital-to-analog conversion device, but in no case shall such compensation exceed $400.

"(d) FUNDS AVAILABLE.—From the Low-Power Digital-to-Analog Conversion Fund established by section 309(j)(8)(E)(i)(IV) of the Communications Act of 1934,

there shall be available to carry out this section such sums as may be necessary for fiscal years 2008 and 2009. Any sums that remain unexpended in such Fund at the end of fiscal year 2009 shall revert to and be deposited in the general fund of the Treasury.".

(e) REPORT AND ORDER REQUIRED.—The Federal Communications Commission shall, not later than December 31, 2008, issue a report and order specifying the methods and schedule by which the Commission will complete the digital television service transition for low-power broadcasters.

SEC. 3409. CONSUMER EDUCATION REGARDING ANALOG TELEVISIONS.

(a) COMMISSION AUTHORITY.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following new subsection:

"(z) Require the consumer education measures specified in section 330(d) in the case of apparatus designed to receive television signals that—

"(1) are shipped in interstate commerce or manufactured in the United States;

"(2) have an integrated display screen or are sold in a bundle with a display screen; and

"(3) are not capable of receiving broadcast signals in the digital television service.".

(b) CONSUMER EDUCATION REQUIREMENTS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) in subsection (d), by striking "sections 303(s), 303(u), and 303(x)" and inserting "subsections (s), (u), (x), and (z) of section 303";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection:

"(d) CONSUMER EDUCATION REGARDING ANALOG TELEVISION RECEIVERS.—

"(1) REQUIREMENTS FOR MANUFACTURERS.—Any manufacturer of any apparatus described in section 303(z) shall—

"(A) place in a conspicuous place on any such apparatus that such manufacturer ships in interstate commerce or manufactures in the United States after 180 days after the date of enactment of the Digital Television Transition Act of 2005, a label containing, in clear and conspicuous print, the warning language required by paragraph (3); and

"(B) also include after 180 days after the date of enactment of the Digital Television Tran-

sition Act of 2005, such warning language on the outside of the retail packaging of such apparatus, in a conspicuous place and in clear and conspicuous print, in a manner that cannot be removed.

"(2) REQUIREMENTS FOR RETAIL DISTRIBUTORS.—Any retail distributor shall place conspicuously in the vicinity of each apparatus described in section 303(z) that such distributor displays for sale or rent after 45 days after the date of enactment of the Digital Television Transition Act of 2005, a sign containing, in clear and conspicuous print, the warning language required by paragraph (3). In the case of a retail distributor vending such apparatus via direct mail, catalog, or electronic means, such as displays on the Internet, the warning language required by such paragraph shall be prominently displayed, in clear and conspicuous print, in the vicinity of any language describing the product.

"(3) WARNING LANGUAGE.—The warning language required by this paragraph shall read as follows: 'This television has only an analog broadcast tuner. After December 31, 2008, television broadcasters will broadcast only in digital format. You will then need to connect this television to a digital-to-

analog converter box or cable or satellite service if you wish to receive broadcast programming. The device, if any, that a cable or satellite subscriber will need to connect to an analog television will depend on the cable or satellite service provider. The television should continue to work as before, however, with devices such as VCRs, digital video recorders, DVD players, and video game systems. For more information, call the Federal Communications Commission at 1–888–225–5322 (TTY: 1–888–835–5322) or visit the Commission's website at: www.fcc.gov.'.

"(4) COMMISSION AND NTIA OUTREACH.—Beginning within one month after the date of enactment of the Digital Television Transition Act of 2005, the Commission and the National Telecommunications and Information Administration shall engage, either jointly or separately, in a public outreach program, including the distribution of materials on their web sites and in Government buildings, such as post offices, to educate consumers regarding the digital television transition. The Commission and the National Telecommunications and Information Administration may seek public comment in crafting their public outreach program, and may seek the assistance of private entities, such as broadcasters, manufacturers, retail-

ers, cable and satellite operators, and consumer groups in administering the public outreach program. The program shall educate consumers about—

"(A) the deadline for termination of analog television broadcasting;

"(B) the options consumers have after such termination to continue to receive broadcast programming; and

"(C) the converter box program under section 159 of the National Telecommunications and Information Administration Organization Act.

"(5) ADDITIONAL DISCLOSURES.—

"(A) ANNOUNCEMENTS AND NOTICES REQUIRED.—From January 1, 2008, through December 31, 2008—

"(i) each television broadcaster shall air, at a minimum, two 60-second public service announcements per day, one during the 8 to 9 a.m. hour and one during the 8 to 9 p.m. hour; and

"(ii) each multichannel video program distributor (as such term is defined in section 602 of this Act) shall include a notice in any periodic bill.

"(B) CONTENTS OF ANNOUNCEMENTS AND NOTICES.—The announcements and notices required by subparagraphs (A)(i) and (A)(ii), respectively, shall state, at a minimum, that: 'After December 31, 2008, television broadcasters will broadcast only in digital format. You will then no longer be able to receive broadcast programming on analog-only televisions unless those televisions are connected to a digital-to-analog converter box or a cable or satellite service. The device, if any, that a cable or satellite subscriber will need to connect to an analog television will depend on the cable or satellite service provider. Analog-only televisions should continue to work as before, however, with devices such as VCRs, digital video recorders, DVD players, and video game systems. You may be eligible for up to two coupons toward the purchase of up to two converter-boxes. For more information, call the Federal Communications Commission at 1–888–225–5322 (TTY: 1–888–835–5322) or visit the Commission's website at: www.fcc.gov.'.

"(6) REPORT REQUIRED.—Beginning January 31, 2006, and ending July 31, 2008, the Commission and the National Telecommunications and Informa-

tion Administration, either jointly or separately, shall submit reports every six months to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the Commission's and such Administration's consumer education efforts, as well as the consumer education efforts of broadcasters, cable and satellite operators, consumer electronics manufacturers, retailers, and consumer groups. The Commission and such Administration may solicit public comment in preparing their reports.".

(c) PRESERVING AND EXPEDITING TUNER MANDATES.—The Federal Communications Commission—

(1) shall, within 30 days after the date of enactment of this Act revise the digital television reception capability implementation schedule under section 15.117(i) of its regulations (47 CFR 15.117(i)) to require, in the case of television reception devices that have, or are sold in a bundle with, display screens sized 13 to 24 inches, inclusive, that 100 percent of all such units must include digital television tuners effective March 1, 2007; and

(2) shall not make any other changes that extend or otherwise delay the digital television reception ca-

pability implementation schedule for television reception devices that have, or are sold in a bundle with, display screens.

SEC. 3410. ADDITIONAL PROVISIONS.

(a) DIGITAL-TO-ANALOG CONVERSION.—Section 614(b) of the Communications Act of 1934 (47 U.S.C. 534(b)) is amended by adding at the end the following new paragraphs:

"(11) CARRIAGE OF DIGITAL FORMATS.—

"(A) PRIMARY VIDEO STREAM.—With respect to any television station that is transmitting broadcast programming exclusively in the digital television service in a local market, a cable operator of a cable system in that market shall carry the station's primary video stream and program-related material in the digital format transmitted by that station, without material degradation, if the licensee for that station—

"(i) relies on this section or section 615 to obtain carriage of the primary video stream and program-related material on that cable system in that market; and

"(ii) permits the cable system to carry without compensation any other program-

ming broadcast by that station that is carried on that system.

"(B) MULTIPLE FORMATS PERMITTED.—A cable operator of a cable system may offer the primary video stream and program-related material of a local television station described in subparagraph (A) in any analog or digital format or formats, whether or not doing so requires conversion from the format transmitted by the local television station, so long as—

"(i) the cable operator offers the primary video stream and program-related material in the converted analog or digital format or formats without material degradation; and

"(ii) also offers the primary video stream and program-related material in the manner or manners required by this paragraph.

"(C) TRANSITIONAL CONVERSIONS.—Notwithstanding the requirement in subparagraph (A) to carry the primary video stream and program-related material in the digital format transmitted by the local television station, but

subject to the prohibition on material degradation, until January 1, 2014—

"(i) a cable operator—

"(I) shall offer the primary video stream and program-related material in the format or formats necessary for such stream and material to be viewable on analog and digital televisions; and

"(II) may convert the primary video stream and program-related material to standard-definition digital format in lieu of offering it in the digital format transmitted by the local television station;

"(ii) notwithstanding clause (i), a cable operator of a cable system with an activated capacity of 550 megahertz or less—

"(I) shall offer the primary video stream and program-related material of the local television station described in subparagraph (A), converted to an analog format; and

"(II) may, but shall not be required to, offer the primary video

stream and program-related material in any digital format or formats.

"(D) LOCATION AND METHOD OF CONVERSION.—

"(i) A cable operator of a cable system may perform any conversion permitted or required by this paragraph at any location, from the cable head-end to the customer premises, inclusive.

"(ii) Notwithstanding any other provision of this Act other than the prohibition on material degradation, a cable operator may use switched digital video technology to accomplish any conversion or transmission permitted or required by this paragraph.

"(E) CONVERSIONS NOT TREATED AS DEGRADATION.—Any conversion permitted or required by this paragraph shall not, by itself, be treated as a material degradation.

"(F) CARRIAGE OF PROGRAM-RELATED MATERIAL.—The obligation to carry program-related material under this paragraph is effective only to the extent technically feasible.

"(G) DEFINITION OF STANDARD-DEFINITION FORMAT.—For purposes of this paragraph, a

stream shall be in standard definition digital format if such stream meets the criteria for such format as specified in the standard recognized by the Commission in section 73.682 of its rules (47 CFR 73.682) or a successor regulation.".

(b) TIERING.—Clause (iii) of section 623(b)(7)(A) of such Act (47 U.S.C. 543(b)(7)(A)(iii)) is amended to read as follows:

"(iii) Both of the following signals:

"(I) the primary video stream and program-related material of any television broadcast station that is provided by the cable operator to any subscriber in an analog format, and

"(II) the primary video stream and program-related material—

"(aa) of any television broadcast station that is transmitting exclusively in digital format, and

"(bb) that is provided by the cable operator to any subscriber in a digital format,

but excluding a signal that is secondarily transmitted by a satellite carrier beyond the local service area of such station.".

(c) COMPARABLE TREATMENT OF SATELLITE CARRIERS.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is amended—

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

"(l) SPECIFIC CARRIAGE OBLIGATIONS AFTER DIGITAL TRANSITION.—

"(1) CARRIAGE OF DIGITAL FORMATS.—With respect to any television station that requests carriage under this section and that is transmitting broadcast programming exclusively in the digital television service in a local market in the contiguous United States (hereafter in this paragraph referred to as an eligible requesting station), a satellite carrier carrying the digital signal of any other local television station in that local market shall carry the eligible requesting station's primary video stream and program-related material, without material degradation, if the licensee for that eligible requesting station—

"(A) relies on this section to obtain carriage of the primary video stream and program-related

material by that satellite carrier in that market; and

"(B) permits the satellite carrier to carry without compensation any other programming broadcast by that local station that is carried on that system.

"(2) FORMATTING OF PRIMARY VIDEO STREAM.—A satellite carrier must offer the primary video stream and program-related material of an eligible requesting station in the digital format transmitted by the station if the satellite carrier carries the primary video stream of any other local television station in that local market in the same digital format.

"(3) MULTIPLE FORMATS PERMITTED.—A satellite carrier may offer the primary video stream and program-related material of an eligible requesting station in any analog or digital format or formats, whether or not doing so requires conversion from the format transmitted by that eligible requesting station, so long as—

"(A) the satellite carrier offers the primary video stream and program-related material in the converted analog or digital format or formats without material degradation; and

"(B) also offers the primary video stream and program-related material in the manner or manners required by this subsection.

"(4) TRANSITIONAL CONVERSIONS.—Notwithstanding any requirement in paragraphs (1) and (2) to carry the primary video stream and program-related material in the digital format transmitted by the local television station, but subject to the prohibition on material degradation, until January 1, 2014, a satellite carrier—

"(A) shall offer the primary video stream and program-related material of any local television broadcast station required to be carried under paragraph (1) in the format necessary for such stream to be viewable on analog and digital televisions; and

"(B) may convert the primary video stream and program-related material to standard-definition format in lieu of offering it in the digital format transmitted by the local television station.

"(5) LOCATION AND METHOD OF CONVERSION.—A satellite carrier may perform any conversion permitted or required by this subsection at any location,

from the local receive facility to the customer premises, inclusive.

"(6) CONVERSIONS NOT TREATED AS DEGRADATION.—Any conversion permitted or required by this subsection shall not, by itself, be treated as a material degradation.

"(7) CARRIAGE OF PROGRAM-RELATED MATERIAL.—The obligation to carry program-related material under this subsection is effective only to the extent technically feasible.

"(8) DEFINITION OF STANDARD-DEFINITION FORMAT.—For purposes of this subsection, a stream shall be in standard definition digital format if such stream meets the criteria for such format as specified in the standard recognized by the Commission in section 73.682 of its rules (47 CFR 73.682) or a successor regulation.";

(2) in subsection (b)(1), by striking "subsection (a)" and inserting "subsection (a) or (l)";

(3) in subsection (c)(1), by striking "subsection (a)(1)" and inserting "subsections (a)(1) and (l)"; and

(4) in subsection (c)(2), by striking "subsection (a)" and inserting "subsections (a) and (l)".

(d) DEADLINE.—The Federal Communications Commission shall revise its regulations to implement the amendments made by this section within one year after the date of enactment of this Act.

SEC. 3411. DEPLOYMENT OF BROADBAND WIRELESS TECHNOLOGIES.

Not later than 45 days after the effective date of this Act, the Commission shall initiate a rulemaking to assess the necessity of rechannelizing the spectrum located between 767–773 megahertz and 797–803 megahertz to accommodate broadband applications. Such rulemaking shall be completed within 180 days.

SEC. 3412. SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The wireless communications industry in the United States is becoming increasingly concentrated: there are currently no ownership limitations on wireless companies, and the five largest wireless carriers in the United States control nearly 90 percent of United States wireless subscribership.

(2) Over 90 percent of households receive their broadband services through either cable or digital subscriber line (DSL) service, and most cable and DSL providers are heavily concentrated within their geographic markets.

(3) Under the Omnibus Budget and Reconciliation Act of 1993, Congress tasked the Federal Communications Commission to promote economic opportunity by disseminating wireless communications licenses among a wide variety of applicants, including small businesses and rural telephone companies.

(4) Upcoming auctions for the returned analog broadcast spectrum in the 700 megahertz band that will be cleared following the transition from analog to digital broadcast television and Advanced Wireless Services (AWS) in the 1710–1755 megahertz and 2110–2155 megahertz bands will likely be the last reallocation opportunities for commercial wireless communications services and wireless broadband services in the foreseeable future.

(5) In the near term, wireless broadband presents the most promising opportunity to provide a third option (other than cable modem or DSL service) for broadband Internet access for most consumers, and the spectrum in the 700 megahertz band is considered "beachfront" property by telecommunications carriers because wireless signals at this frequency range pass easily through buildings, trees, and other interference.

(6) The 700 megahertz band offers a historic opportunity to provide the equivalent of a "third wire"

into the home – an alternative to telephone or cable broadband access that will create new competition and incentives for new entrants, innovation, and broader service offerings.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Federal Communications Commission should disseminate wireless communications licenses consistent with the findings in subsection (a) and do so utilizing its existing authority under section 309(j) of the Communications Act of 1934, which requires the Commission to promote the following objectives:

(1) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

(2) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and rural telephone companies;

(3) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrich-

ment through the methods employed to award uses of that resource; and

(4) efficient and intensive use of the electromagnetic spectrum.

SEC. 3413. BAND PLAN REVISION REQUIRED.

(a) PROCEEDING REQUIRED.—The Federal Communications Commission shall commence a proceeding no later than June 1, 2006, to reevaluate the band plan for the auction of the unauctioned portions of the lower 700 megahertz band (currently designated as Blocks A, B, and E).

(b) RECONFIGURATION REQUIRED.—The Federal Communications Commission shall reconfigure the band plan to license spectrum for Block B of such portion according to Cellular Market Areas (i.e., Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs")) to facilitate the offering of competitive wireless services by regional and smaller wireless carriers.

TITLE IV—COMMITTEE ON FINANCIAL SERVICES

SECTION 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Sec. 4000. Table of contents.

Subtitle A—Deposit Insurance Reform

Sec. 4001. Short title.
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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.
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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.

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Subtitle A—Deposit Insurance Reform

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Federal Deposit Insurance Reform Act of 2005".

SEC. 4002. MERGING THE BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings

Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 4003. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3)."; and

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

"(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this

Act, the term 'standard maximum deposit insurance amount' means—

"(i) until the effective date of final regulations prescribed pursuant to section 4009(a)(2) of the Federal Deposit Insurance Reform Act of 2005, $100,000; and

"(ii) on and after such effective date, $130,000, adjusted as provided under subparagraph (F).

"(F) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—By April 1 of 2007, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

"(I) $130,000; and

"(II) the ratio of the value of the Personal Consumption Expenditures

Chain-Type Index (or any successor index thereto), published by the Department of Commerce, as of December 31 of the year preceding the year in which the adjustment is calculated under this clause, to the value of such index as of the date this subparagraph takes effect.

"(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded to the nearest $10,000.

"(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

"(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard max-

imum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

"(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

"(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.".

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

"(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

"(I) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 38.

"(II) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan' has the same meaning as in paragraph (8)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(III) PASS-THROUGH DEPOSIT INSURANCE.—The term 'pass-through

deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage provided on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.".

(c) DOUBLING OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking "$100,000" and inserting "2 times the standard maximum deposit insurance amount (as determined under paragraph (1))".

(d) INCREASED INSURANCE COVERAGE FOR MUNICIPAL DEPOSITS.—Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by moving the margins of clauses (i) through (v) 4 ems to the right;

(B) by striking, in the matter following clause (v), "such depositor shall" and all that follows through the period; and

(C) by striking the semicolon at the end of clause (v) and inserting a period;

(2) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor who is—" and inserting the following:

"(2) MUNICIPAL DEPOSITORS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor—

"(i) a municipal depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (E); and

"(ii) except as provided in subparagraph (B), the deposits of a municipal depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

"(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured deposi-

tory institution, such deposits shall be insured in an amount not to exceed the lesser of—

"(i) $2,000,000; or

"(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

"(C) MUNICIPAL DEPOSIT PARITY.—No State may deny to insured depository institutions within its jurisdiction the authority to accept deposits insured under this paragraph, or prohibit the making of such deposits in such institutions by any in-State municipal depositor.

"(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term 'in-State municipal depositor' means a municipal depositor that is located in the same State as the office or branch of the insured depository institution at which the deposits of that depositor are held.

"(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term 'municipal depositor' means a depositor that is—";

(3) by striking "(B) The" and inserting the following:

"(F) AUTHORITY TO LIMIT DEPOSITS.—The"; and

(4) by striking "depositor referred to in subparagraph (A) of this paragraph" each place such term appears and inserting "municipal depositor".

(e) TECHNICAL AND CONFORMING AMENDMENT RELATING TO INSURANCE OF TRUST FUNDS.—Paragraphs (1) and (3) of section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) are each amended by striking "$100,000" and inserting "the standard maximum deposit insurance amount (as determined under section 11(a)(1))".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(m)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(m)(6)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(2) Subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended to read as follows:

"(a) INSURANCE LOGO.—

"(1) INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(3) Section 43(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(d)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(4) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(A) by striking "$100,000" each place such term appears and inserting "an amount equal to the standard maximum deposit insurance amount"; and

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

"(e) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this section, the term 'standard maximum deposit insurance amount' means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act.".

(g) CONFORMING CHANGE TO CREDIT UNION SHARE INSURANCE FUND.—

(1) IN GENERAL.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(A) by striking "(k)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(k) INSURED AMOUNTS PAYABLE.—

"(1) NET INSURED AMOUNT.—

"(A) IN GENERAL.—Subject to the provisions of paragraph (2), the net amount of share

insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

"(B) AGGREGATION.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

"(C) AUTHORITY TO DEFINE THE EXTENT OF COVERAGE.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including

member accounts in the name of a minor, in trust, or in joint tenancy.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clauses (i) through (v), by moving the margins 4 ems to the right;

(II) in the matter following clause (v), by striking "his account" and all that follows through the period; and

(III) by striking the semicolon at the end of clause (v) and inserting a period;

(ii) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor or member who is—" and inserting the following:

"(2) MUNICIPAL DEPOSITORS OR MEMBERS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available to any 1 depositor or member, deposits or shares of a municipal depositor or member shall be insured in an amount equal to the standard maximum share insurance amount (as deter-

mined under paragraph (5)), except as provided in subparagraph (B).

"(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured credit union, such deposits shall be insured in an amount equal to the lesser of—

"(i) $2,000,000; or

"(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of a municipal depositor in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term 'in-State municipal depositor' means a municipal depositor that is located in the same

State as the office or branch of the insured credit union at which the deposits of that depositor are held.

"(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term 'municipal depositor' means a depositor that is—";

(iii) by striking "(B) The" and inserting the following:

"(F) AUTHORITY TO LIMIT DEPOSITS.—The"; and

(iv) by striking "depositor or member referred to in subparagraph (A)" and inserting "municipal depositor or member"; and

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

"(4) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(A) PASS-THROUGH INSURANCE.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan.

"(B) PROHIBITION ON ACCEPTANCE OF DEPOSITS.—An insured credit union that is not

well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(C) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 216(c).

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974;

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

"(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(iii) PASS-THROUGH SHARE INSURANCE.—The term 'pass-through share insurance' means, with respect to an employee benefit plan, insurance coverage provided

on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.

"(D) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of an employee benefit plan in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(5) STANDARD MAXIMUM SHARE INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum share insurance amount' means—

"(A) until the effective date of final regulations prescribed pursuant to section 4009(a)(2) of the Federal Deposit Insurance Reform Act of 2005, $100,000; and

"(B) on and after such effective date, $130,000, adjusted as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act.".

(2) DOUBLING OF SHARE INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 207(k)(3) of the Federal Credit Union Act (12 U.S.C. 1787(k)(3))

is amended by striking "$100,000" and inserting "2 times the standard maximum share insurance amount (as determined under paragraph (1))".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 4009(a)(2) take effect.

SEC. 4004. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

"(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

"(i) The estimated operating expenses of the Deposit Insurance Fund.

"(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

"(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

"(iv) the risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

"(v) Any other factors the Board of Directors may determine to be appropriate."; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) BASE RATE FOR ASSESSMENTS.—

"(i) IN GENERAL.—In setting assessment rates pursuant to subparagraph (A), the Board of Directors shall establish a base rate of not more than 1 basis point (exclusive of any credit or dividend) for those insured depository institutions in the lowest-

risk category under the risk-based assessment system established pursuant to paragraph (1). No insured depository institution shall be barred from the lowest-risk category solely because of size.

"(ii) SUSPENSION.—Clause (i) shall not apply during any period in which the reserve ratio of the Deposit Insurance Fund is less than the amount which is equal to 1.15 percent of the aggregate estimated insured deposits.".

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

"(A) the end of the 3-year period beginning on the due date of the assessment; or

"(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.".

(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

"(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (3), any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount not more than 1 percent of the amount of the assessment due for each day that such violation continues.

"(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

"(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

"(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

"(3) SPECIAL RULE FOR SMALL ASSESSMENT AMOUNTS.—If the amount of the assessment which an insured depository institution fails or refuses to pay is less than $10,000 at the time of such failure or refusal, the amount of any penalty to which such institution is subject under paragraph (1) shall not exceed $100 for each day that such violation continues.

"(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.".

(d) ASSESSMENTS FOR LIFELINE ACCOUNTS.—

(1) IN GENERAL.—Section 232 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834) is amended by striking subsection (c).

(2) CLARIFICATION OF RATE APPLICABLE TO DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.—Section 7(b)(2)(H) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(H)) is amended by striking "at a rate determined in accordance with such Act" and

inserting "at ½ the assessment rate otherwise applicable for such insured depository institution".

(3) REGULATIONS.—Section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "Board of Governors of the Federal Reserve System, and the".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended by striking the 3d sentence and inserting the following: "Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).".

(2) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking "semiannual" where such term appears in each such subparagraph.

(3) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (E), (F), and (G);

(B) in subparagraph (C), by striking "semiannual"; and

(C) by redesignating subparagraph (H) (as amended by subsection (e)(2) of this section) as subparagraph (E).

(4) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5) (as amended by subsection (b) of this section), (6), and (7) as paragraphs (4), (5), and (6) respectively.

(5) Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended—

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

(6) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(7) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(8) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking "semiannual period" and inserting "assessment period".

(9) Section 232(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (2), by striking "the Board and";

(B) in subparagraph (J) of paragraph (2), by striking "the Board" and inserting "the Corporation";

(C) by striking subparagraph (A) of paragraph (3) and inserting the following new subparagraph:

"(A) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation."; and

(D) in subparagraph (C) of paragraph (3), by striking "Board" and inserting "Corporation".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that

the final regulations required under section 4009(a)(5) take effect.

SEC. 4005. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) DESIGNATED RESERVE RATIO.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—The Board of Directors shall designate, by regulation after notice and opportunity for comment, the reserve ratio applicable with respect to the Deposit Insurance Fund.

"(ii) NOT LESS THAN ANNUAL REDETERMINATION.—A determination under clause (i) shall be made by the Board of Directors at least before the beginning of each calendar year, for such calendar year, and at such other times as the Board of Directors may determine to be appropriate.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.4 percent of estimated insured deposits; and

"(ii) may not be less than 1.15 percent of estimated insured deposits.

"(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

"(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

"(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may deter-

mine to be appropriate, consistent with the requirements of this subparagraph.

"(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended—

(1) by striking "(y) The term" and inserting(y) Definitions Relating to Deposit Insurance Fund.—

"(1) DEPOSIT INSURANCE FUND.—The term"; and

(2) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraph:

"(2) DESIGNATED RESERVE RATIO.—The term 'designated reserve ratio' means the reserve ratio designated by the Board of Directors in accordance with section 7(b)(3).".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that

the final regulations required under section 4009(a)(1) take effect.

SEC. 4006. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

"(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

"(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the

Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

"(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

"(I) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall consult with the appropriate Federal banking agency of such institution.

"(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by

such institutions may be made on an aggregate basis.

"(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

"(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.".

SEC. 4007. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS, DIVIDENDS, AND CREDITS.—

"(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured de-

pository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

"(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

"(A) RESERVE RATIO IN EXCESS OF 1.4 PERCENT OF ESTIMATED INSURED DEPOSITS.— Whenever the reserve ratio of the Deposit Insurance Fund exceeds 1.4 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.4 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

"(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.4 PERCENT.— Whenever the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.4 percent of such deposits, the Corporation shall

declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

"(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

"(i) IN GENERAL.—Solely for the purposes of dividend distribution under this paragraph and credit distribution under paragraph (3)(B), the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating such institution's share of any dividend or credit declared under this paragraph or paragraph (3)(B), taking into account the factors described in clause (ii).

"(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph and paragraph (3)(B) in accordance with regulations, the Corporation shall take into account the following factors:

"(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

"(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

"(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

"(IV) Such other factors as the Corporation may determine to be appropriate.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

1 *"(3) CREDIT POOL.—*

2 *"(A) ONE-TIME CREDIT BASED ON TOTAL*
3 *ASSESSMENT BASE AT YEAR-END 1996.—*

4 *"(i) IN GENERAL.—Before the end of*
5 *the 270-day period beginning on the date of*
6 *the enactment of the Federal Deposit Insur-*
7 *ance Reform Act of 2005, the Board of Di-*
8 *rectors shall, by regulation, provide for a*
9 *credit to each eligible insured depository in-*
10 *stitution, based on the assessment base of*
11 *the institution (including any predecessor*
12 *institution) on December 31, 1996, as com-*
13 *pared to the combined aggregate assessment*
14 *base of all eligible insured depository insti-*
15 *tutions, taking into account such factors as*
16 *the Board of Directors may determine to be*
17 *appropriate.*

18 *"(ii) CREDIT LIMIT.—The aggregate*
19 *amount of credits available under clause (i)*
20 *to all eligible insured depository institu-*
21 *tions shall equal the amount that the Cor-*
22 *poration could collect if the Corporation im-*
23 *posed an assessment of 12 basis points on*
24 *the combined assessment base of the Bank*
25 *Insurance Fund and the Savings Associa-*

tion Insurance Fund as of December 31, 2001.

"(iii) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(I) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(II) is a successor to any insured depository institution described in subclause (I).

"(iv) APPLICATION OF CREDITS.—

"(I) IN GENERAL.—The amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(E), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under clause (i).

"(II) REGULATIONS.—The regulations prescribed under clause (i) shall establish the qualifications and procedures governing the application of assessment credits pursuant to subclause (I).

"(v) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

"(vi) PREDECESSOR DEFINED.—For purposes of this paragraph, the term 'predecessor', when used with respect to any in-

sured depository institution, includes any other insured depository institution acquired by or merged with such insured depository institution.

"(B) ON-GOING CREDIT POOL.—

"(i) IN GENERAL.—In addition to the credit provided pursuant to subparagraph (A) and subject to the limitation contained in clause (v) of such subparagraph, the Corporation shall, by regulation, establish an on-going system of credits to be applied against future assessments under subsection (b)(1) on the same basis as the dividends provided under paragraph (2)(C).

"(ii) LIMITATION ON CREDITS UNDER CERTAIN CIRCUMSTANCES.—No credits may be awarded by the Corporation under this subparagraph during any period in which—

"(I) the reserve ratio of the Deposit Insurance Fund is less than the designated reserve ratio of such Fund; or

"(II) the reserve ratio of the Fund is less than 1.25 percent of the amount of estimated insured deposits.

"(iii) CRITERIA FOR DETERMINATION.—In determining the amounts of any assessment credits under this subparagraph, the Board of Directors shall take into account the factors for designating the reserve ratio under subsection (b)(3) and the factors for setting assessments under subsection (b)(2)(B).

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (2)(D) and subparagraphs (A) and (B) of paragraph (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

(b) DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 4005(b) of this subtitle) is amended by adding at the end the following new paragraph:

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

SEC. 4008. DEPOSIT INSURANCE FUND RESTORATION PLANS.

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 4005(a) of this subtitle) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Corporation determines to be appropriate.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 10-year period beginning upon the implementation of the plan.

"(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan

under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

"(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

"(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of

the factors considered and the basis for the actions taken with regard to the plan.".

SEC. 4009. REGULATIONS REQUIRED.

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—

(1) designating the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 4005 of this subtitle);

(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 4003 of this subtitle;

(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 4007 of this subtitle);

(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 4007 of this subtitle, including the qualifications and procedures under which the Corporation would apply assessment credits; and

(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by this subtitle.

(b) RULE OF CONSTRUCTION.—No provision of this subtitle or any amendment made by this subtitle shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments before the effective date of the final regulations prescribed under subsection (a).

SEC. 4010. STUDIES OF FDIC STRUCTURE AND EXPENSES AND CERTAIN ACTIVITIES AND FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.

(a) STUDY BY COMPTROLLER GENERAL.—

(1) STUDY REQUIRED.—The Comptroller General shall conduct a study of the following issues:

(A) The efficiency and effectiveness of the administration of the prompt corrective action program under section 38 of the Federal Deposit Insurance Act by the Federal banking agencies (as defined in section 3 of such Act), including the degree of effectiveness of such agencies in identifying troubled depository institutions and taking effective action with respect to such insti-

tutions, and the degree of accuracy of the risk assessments made by the Corporation.

(B) The appropriateness of the organizational structure of the Federal Deposit Insurance Corporation for the mission of the Corporation taking into account—

(i) the current size and complexity of the business of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act);

(ii) the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and

(iii) the effectiveness of internal controls.

(2) REPORT TO THE CONGRESS.—The Comptroller General shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(b) STUDY OF FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.—

(1) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each conduct a study of the following:

(A) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor and the potential benefits and the potential adverse consequences that may result from the establishment of any such system.

(B) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions.

(2) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each submit a report to the Congress on the study required under paragraph (1) containing the findings and conclusions of the reporting agency together with such recommendations for legislative or administrative changes as the agency may determine to be appropriate.

(c) STUDY REGARDING APPROPRIATE DEPOSIT BASE IN DESIGNATING RESERVE RATIO.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the feasibility of using actual domestic deposits rather than estimated insured deposits in calculating the reserve ratio of the Deposit Insurance Fund and designating a reserve ratio for such Fund.

(2) REPORT.—The Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Board of Directors of the Corporation may determine to be appropriate.

(d) STUDY OF RESERVE METHODOLOGY AND ACCOUNTING FOR LOSS.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the reserve methodology and loss accounting used by the Corporation during the period beginning on January 1, 1992, and ending December 31, 2004, with respect to insured depository institutions in a troubled condi-

tion (as defined in the regulations prescribed pursuant to section 32(f) of the Federal Deposit Insurance Act). The Corporation shall obtain comments on the design of the study from the Comptroller General.

(2) FACTORS TO BE INCLUDED.—In conducting the study pursuant to paragraph (1), the Federal Deposit Insurance Corporation shall—

(A) consider the overall effectiveness and accuracy of the methodology used by the Corporation for establishing and maintaining reserves and estimating and accounting for losses at insured depository institutions, during the period described in such paragraph;

(B) consider the appropriateness and reliability of information and criteria used by the Corporation in determining—

(i) whether an insured depository institution was in a troubled condition; and

(ii) the amount of any loss anticipated at such institution;

(C) analyze the actual historical loss experience over the period described in paragraph (1) and the causes of the exceptionally high rate of losses experienced by the Corporation in the final 3 years of that period; and

(D) rate the efforts of the Corporation to reduce losses in such 3-year period to minimally acceptable levels and to historical levels.

(3) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act, containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1), together with such recommendations for legislative or administrative action as the Board of Directors may determine to be appropriate. Before submitting the report to Congress, the Board of Directors shall provide a draft of the report to the Comptroller General for comment.

SEC. 4011. BI-ANNUAL FDIC SURVEY AND REPORT ON INCREASING THE DEPOSIT BASE BY ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

"(a) SURVEY REQUIRED.—

"(1) IN GENERAL.—The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.

"(2) FACTORS AND QUESTIONS TO CONSIDER.—In conducting the survey, the Corporation shall take the following factors and questions into account:

"(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

"(B) Which financial education efforts appear to be the most effective in bringing 'unbanked' individuals and families into the conventional finance system?

"(C) What efforts are insured institutions making at converting 'unbanked' money order, wire transfer, and international remittance customers into conventional account holders?

"(D) What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts?

"(E) What is a fair estimate of the size and worth of the 'unbanked' market in the United States?

"(b) REPORTS.—The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.".

SEC. 4012. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) by striking subparagraph (B) of subsection (a)(1) and inserting the following new subparagraph:

"(B) includes any former savings association."; and

(B) by striking paragraph (1) of subsection (y) (as so designated by section 4005(b) of this subtitle) and inserting the following new paragraph:

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3) (and any funds resulting from the application of such paragraph (2) prior to its repeal shall be deposited into the general fund of the Deposit Insurance Fund);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) ***UNINSURED INSTITUTIONS****.—"; and*

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(C) in paragraph (5) (as so redesignated by section 4004(e)(4) of this subtitle)—

(i) by striking "any such assessment" and inserting "any such assessment is necessary";

(ii) by striking subparagraph (B);

(iii) in subparagraph (A)—

(I) by striking "(A) is necessary—";

(II) by striking "Bank Insurance Fund members" and inserting "insured depository institutions"; and

(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A),

(B), and (C), respectively, and moving the margins 2 ems to the left; and

(iv) in subparagraph (C) (as so redesignated)—

(I) by inserting "that" before "the Corporation"; and

(II) by striking "; and" and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph: "(4) DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default,

in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as so redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking "institution, any" and inserting "institution, the";

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

*(A) in paragraph (2), by striking "**LIABILITIES**.—" and all that follows through "Except" and inserting "**LIABILITIES**.—Except";*

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking "Federal deposit insur-

ance funds" and inserting "the Deposit Insurance Fund (or any predecessor deposit insurance fund)";

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(C) in subsection (c)(4)(E)—

(i) in the subparagraph heading, by striking "funds" and inserting "fund"; and

(ii) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(D) in subsection (c)(4)(G)(ii)—

(i) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(ii) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(iii) by striking "each member's" and inserting "each insured depository institution's"; and

(iv) by striking "the member's" each place that term appears and inserting "the institution's";

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund member" and inserting "savings association"; and

(H) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund members" and inserting "savings associations";

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking "Bank Insurance Fund member" each place that term appears and inserting "insured depository institution";

(B) by striking "Bank Insurance Fund members" each place that term appears and inserting "insured depository institutions";

(C) by striking "Bank Insurance Fund" each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting "Deposit Insurance Fund";

(D) by striking the subsection heading and inserting the following:

"(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—";

(E) in paragraph (3), in the paragraph heading, by striking "BIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(F) in paragraph (5), in the paragraph heading, by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS";

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

"(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

"(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board;

"(C) be a direct liability of the Deposit Insurance Fund; and

"(D) be subject to the limitations of section 15(c).";

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) in paragraph (1)—

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (D), by striking "each insurance fund" and inserting "the Deposit Insurance Fund";

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ", the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund";

(28) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking "Savings Association Insurance Fund" in the 1st sentence of subparagraph (A) and inserting "Deposit Insurance Fund";

(B) by striking "Savings Association Insurance Fund member" in the last sentence of subparagraph (A) and inserting "savings association"; and

(C) by striking "Savings Association Insurance Fund or the Bank Insurance Fund" in subparagraph (C) and inserting "Deposit Insurance Fund";

(29) in section 18(o) (12 U.S.C. 1828(o)), by striking "deposit insurance funds" and "deposit insurance fund" each place those terms appear and inserting "Deposit Insurance Fund";

(30) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(31) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (e)(2)(A), by striking "risk to" and all that follows through the period and inserting "risk to the Deposit Insurance Fund."; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking "the insurance fund of which such bank is a member" each place that term appears and inserting "the Deposit Insurance Fund";

(32) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(33) by striking section 31 (12 U.S.C. 1831h);

(34) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(35) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking "insurance funds" and inserting "Deposit Insurance Fund";

(36) in section 38 (12 U.S.C. 1831o), by striking "the deposit insurance fund" each place that term appears and inserting "the Deposit Insurance Fund";

(37) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking "FUNDS" and inserting "FUND";

(38) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(B) in paragraph (2), by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(C) in paragraphs (2)(A) and (3)(B), by striking "the deposit insurance fund's outlays" each place that term appears and inserting "the outlays of the Deposit Insurance Fund"; and

(39) in section 38(o) (12 U.S.C. 1831o(o))—

*(A) by striking "**ASSOCIATIONS**.—" and all that follows through "Subsections (e)(2)" and inserting "**ASSOCIATIONS**.—Subsections (e)(2)";*

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subpara-

graphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 4013. OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is

amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(d) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);".

(e) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 11(k) (12 U.S.C. 1431(k))—

(A) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ", the following definitions shall apply";

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(f) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(B) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time

as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(D) in subsection (e)(4)(B), by striking "subsection (1)" and inserting "subsection (l)";

(E) in subsection (g)(3)(A), by striking "(5) of this section" and inserting "(5) of this subsection";

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;

(H) in subsection (m)(7)(A), by striking "during period" and inserting "during the period"; and

(I) in subsection (o)(3)(D), by striking "sections 5(s) and (t) of this Act" and inserting "subsections (s) and (t) of section 5".

(g) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund

for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting "and after the merger of such funds, the Deposit Insurance Fund," after "the Savings Association Insurance Fund,"; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(i) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking "appropriate deposit insurance fund" and inserting "Deposit Insurance Fund".

(j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.—Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking "any Federal deposit insurance fund" in subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting "the Deposit Insurance Fund".

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

Subtitle B—FHA Asset Disposition

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "FHA Asset Disposition Act of 2005".

SEC. 4102. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "affordability requirements" means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

(2) The term "discount sale" means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) The term "discount loan sale" means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

(5) The term "multifamily real property" means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 4103. APPROPRIATED FUNDS REQUIREMENT FOR BELOW MARKET SALES.

(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a), shall be subject to the availability of appropriations to the extent that the property value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a)), shall be subject to the availability of appropriations to the extent that the loan value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

SEC. 4104. UP-FRONT GRANTS.

(a) 1997 Act.—Section 204(a) of the Departments of Veterans Affairs and Housing And Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a))) is amended by adding at the end the following new sentence: "A grant provided under this sub-

section during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.".

(b) 1978 Act.—Section 203(f)(4) of the Housing and Community Development Amendments of 1978 (12 USC 1701z-11(f)(4)) is amended by adding at the end the following new sentence: "This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.".

(c) APPLICABILITY.—The amendments made by this section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

TITLE V—COMMITTEE ON JUDICIARY

SEC. 5001. TABLE OF CONTENTS.

TITLE V—COMMITTEE ON JUDICIARY

Sec. 5001. Table of contents.

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Subtitle E—Authorization of Appropriations

Sec. 5501. Authorization of appropriations.

Subtitle A—Visa Fees

SEC. 5101. FEES WITH RESPECT TO IMMIGRATION SERVICES FOR INTRACOMPANY TRANSFEREES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(15)(A) The Secretary of State shall impose a fee on an employer when an alien files an application abroad for a visa authorizing initial admission to the United States as a nonimmigrant described in section 101(a)(15)(L) in order to be employed by the employer, if the alien is covered under a blanket petition described in paragraph (2)(A).

"(B) The Secretary of Homeland Security shall impose a fee on an employer filing a petition under paragraph (1) initially to grant an alien nonimmigrant status described in section 101(a)(15)(L) or to extend for the first time the stay of an alien having such status.

"(C) The amount of the fee imposed under subparagraph (A) or (B) shall be $1,500.

"(D) The fees imposed under subparagraphs (A) and (B) shall only apply to principal aliens and not to spouses or children who are accompanying or following to join such principal aliens.

"(E) Fees collected under this paragraph shall be deposited as offsetting receipts in the Treasury, and shall not be available for expenditure until appropriated.

"(F)(i) An employer may not require an alien who is the beneficiary of the visa or petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee.

"(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).".

Subtitle B—Circuit and District Judgeships

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Federal Judgeship Act of 2005".

SEC. 5202. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional circuit judge for the first circuit court of appeals;

(2) 2 additional circuit judges for the second circuit court of appeals;

(3) 1 additional circuit judge for the sixth circuit court of appeals; and

(4) 5 additional circuit judges for the ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional circuit judge for the eighth circuit court of appeals; and

(B) 2 additional circuit judges for the ninth circuit court of appeals, whose official duty station shall be in California.

(2) VACANCIES.—

(A) EIGHTH CIRCUIT.—The first vacancy in the office of circuit judge in the eighth circuit court of appeals, occurring 10 years or more after the confirmation date of the judge named to fill the circuit judgeship created in that circuit by paragraph (1)(A) shall not be filled.

(B) NINTH CIRCUIT.—The first 2 vacancies in the office of circuit judge in the ninth circuit court of appeals, occurring 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by paragraph (1)(B) shall not be filled.

(c) TABLE OF JUDGESHIPS.—In order that the table contained in section 44 of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized under subsection (a) of this section, such table is amended to read as follows:

"Circuits	***Number of Judges***
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.".*

1 ***SEC. 5203. DISTRICT JUDGES FOR THE DISTRICT COURTS.***

2 *(a) IN GENERAL.—The President shall appoint, by*
3 *and with the advice and consent of the Senate—*

4 *(1) 1 additional district judge for the northern*
5 *district of Alabama;*

6 *(2) 4 additional district judges for the district of*
7 *Arizona;*

8 *(3) 3 additional district judges for the northern*
9 *district of California;*

10 *(4) 4 additional district judges for the eastern*
11 *district of California;*

12 *(5) 4 additional district judges for the central*
13 *district of California;*

14 *(6) 1 additional district judge for the southern*
15 *district of California;*

16 *(7) 1 additional district judge for the district of*
17 *Colorado;*

18 *(8) 4 additional district judges for the middle*
19 *district of Florida;*

20 *(9) 3 additional district judges for the southern*
21 *district of Florida;*

(10) 1 additional district judge for the district of Idaho;

(11) 1 additional district judge for the northern district of Illinois;

(12) 1 additional district judge for the southern district of Indiana;

(13) 1 additional district judge for the western district of Missouri;

(14) 1 additional district judge for the district of Nebraska;

(15) 1 additional district judge for the district of Nevada;

(16) 1 additional district judge for the district of New Mexico;

(17) 3 additional district judges for the eastern district of New York;

(18) 1 additional district judge for the western district of New York;

(19) 1 additional district judge for the district of Oregon;

(20) 1 additional district judge for the district of South Carolina;

(21) 3 additional district judges for the southern district of Texas;

(22) 2 additional district judges for the eastern district of Virginia; and

(23) 1 additional district judge for the western district of Washington.

(b) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the middle district of Alabama;

(B) 1 additional district judge for the district of Arizona;

(C) 1 additional district judge for the northern district of California;

(D) 1 additional district judge for the district of Colorado;

(E) 1 additional district judge for the middle district of Florida;

(F) 1 additional district judge for the northern district of Iowa;

(G) 1 additional district judge for the district of Minnesota;

(H) 1 additional district judge for the district of New Jersey;

(I) 1 additional district judge for the district of New Mexico;

(J) 1 additional district judge for the southern district of Ohio;

(K) 1 additional district judge for the district of Oregon; and

(L) 1 additional district judge for the district of Utah.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the judicial districts named in paragraph (1) occurring 10 years or more after the confirmation date of the judge named to fill the district judgeship created in that district by paragraph (1) shall not be filled.

(c) EXISTING JUDGESHIPS.—

(1) PERMANENT JUDGESHIPS.—The existing judgeships for the district of Hawaii, the district of Kansas, and the eastern district of Missouri authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note) shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(2) EXTENSION OF TEMPORARY JUDGESHIP.—Section 203(c) of the Judicial Improvements Act of

1 *1990 (Public Law 101–650; 28 U.S.C. 133 note) is*
2 *amended in the fifth sentence (relating to the northern*
3 *district of Ohio) by striking "15 years" and inserting*
4 *"20 years".*

5 *(d) TABLE OF JUDGESHIPS.—In order that the table*
6 *contained in section 133(a) of title 28, United States Code,*
7 *will, with respect to each judicial district, reflect the*
8 *changes in the total number of permanent district judge-*
9 *ships authorized under subsections (a) and (c) of this sec-*
10 *tion, such table is amended to read as follows:*

"Districts	***Judges***
"Alabama:	
"Northern	*8*
"Middle	*3*
"Southern	*3*
"Alaska	*3*
"Arizona	*16*
"Arkansas:	
"Eastern	*5*
"Western	*3*
"California:	
"Northern	*17*
"Eastern	*10*
"Central	*31*
"Southern	*14*
"Colorado	*8*
"Connecticut	*8*
"Delaware	*4*
"District of Columbia	*15*
"Florida:	
"Northern	*4*
"Middle	*19*
"Southern	*20*
"Georgia:	
"Northern	*11*
"Middle	*4*
"Southern	*3*
"Hawaii	*4*
"Idaho	*3*
"Illinois:	
"Northern	*23*
"Central	*4*
"Southern	*4*

"Indiana:
"Northern *5*
"Southern *6*
"Iowa:
"Northern *2*
"Southern *3*
"Kansas *6*
"Kentucky:
"Eastern *5*
"Western *4*
"Eastern and Western *1*
"Louisiana:
"Eastern *12*
"Middle *3*
"Western *7*
"Maine *3*
"Maryland *10*
"Massachusetts *13*
"Michigan:
"Eastern *15*
"Western *4*
"Minnesota *7*
"Mississippi:
"Northern *3*
"Southern *6*
"Missouri:
"Eastern *7*
"Western *6*
"Eastern and Western *2*
"Montana *3*
"Nebraska *4*
"Nevada *8*
"New Hampshire *3*
"New Jersey *17*
"New Mexico *7*
"New York:
"Northern *5*
"Southern *28*
"Eastern *18*
"Western *5*
"North Carolina:
"Eastern *4*
"Middle *4*
"Western *4*
"North Dakota *2*
"Ohio:
"Northern *11*
"Southern *8*
"Oklahoma:
"Northern *3*
"Eastern *1*
"Western *6*
"Northern, Eastern, and Western. *1*
"Oregon *7*

"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.".*

SEC. 5204. ESTABLISHMENT OF ARTICLE III COURT IN THE VIRGIN ISLANDS.

(a) ESTABLISHMENT OF JUDICIAL DISTRICT.—

(1) VIRGIN ISLANDS.—Chapter 5 of title 28, United States Code, is amended by inserting after section 126 the following new section:

"§ 126A. Virgin Islands

"The Virgin Islands constitutes 1 judicial district comprising 2 divisions.

"(1) The Saint Croix Division comprises the Island of Saint Croix and adjacent islands and cays.

"Court for the Saint Croix Division shall be held at Christiansted.

"(2) The Saint Thomas and Saint John Division comprises the Islands of Saint Thomas and Saint John and adjacent islands and cays.

"Court for the Saint Thomas and Saint John Division shall be held at Charlotte-Amalie.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for chapter 5 of title 28, United States Code, is amended by inserting after the item relating to section 126 the following:

"126A. Virgin Islands.".

(b) NUMBER OF JUDGES.—The table contained in section 133(a) of title 28, United States Code, is amended by inserting after the item relating to Vermont the following:

"Virgin Islands ..... 2".

(c) BANKRUPTCY JUDGES.—The table contained in section 152(a)(2) of title 28, United States Code, is amended by inserting after the item relating to Vermont the following:

"Virgin Islands ..... 0".

(d) JUDICIAL CONFERENCES OF CIRCUITS.—Section 333 of title 28, United States Code, is amended in the third sentence of the first undesignated paragraph—

(1) by striking ", the District Court of the Virgin Islands,"; and

(2) by striking "to the conferences of their respective circuits" and inserting "to the conference of the ninth circuit".

(e) JUDGES IN TERRITORIES AND POSSESSIONS.—Section 373 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ", the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands" and inserting "or the District Court of the Northern Mariana Islands"; and

(2) in subsection (e), by striking ", the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands" and inserting "or the District Court of the Northern Mariana Islands".

(f) ANNUITIES FOR SURVIVORS OF CERTAIN JUDICIAL OFFICIALS OF THE UNITED STATES.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (1)(B), by striking ", the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands" and inserting

"or the District Court of the Northern Mariana Islands"; and

(2) in paragraph (2)(B), by striking ", the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands" and inserting "or the District Court of the Northern Mariana Islands".

(g) AUTHORITY OF ATTORNEY GENERAL.—Section 526(a)(2) of title 28, United States Code, is amended by striking "and of the district court of the Virgin Islands".

(h) COURTS DEFINED.—Section 610 of title 28, United States Code, is amended—

(1) by striking "the United States District Court for the District of the Canal Zone,"; and

(2) by striking "the District Court of the Virgin Islands,".

(i) UNITED STATES MAGISTRATE JUDGES.—Section 631(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "the Virgin Islands, Guam," and inserting "Guam"; and

(2) in the second sentence, by striking "the Virgin Islands, Guam," and inserting "Guam".

(j) COURT REPORTERS.—Section 753(a) of title 28, United States Code, is amended by striking ", the United States District Court for the District of the Canal Zone,

the District Court of Guam, and the District Court of the Virgin Islands" and inserting "and the District Court of Guam".

(k) FINAL DECISIONS OF DISTRICT COURTS.—Section 1291 of title 28, United States Code, is amended by striking ", the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands," and inserting "and the District Court of Guam,".

(l) INTERLOCUTORY DECISIONS.—Section 1292 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ", the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands," and inserting "and the District Court of Guam,"; and

(2) in subsection (d)(4)(A), by striking "the District Court of the Virgin Islands,".

(m) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a) of title 28, United States Code, is amended in paragraphs (1) and (2)—

(1) by striking "the United States District Court for the District of the Canal Zone,"; and

(2) by striking "the District Court of the Virgin Islands,".

(n) UNITED STATES AS DEFENDANT.—Section 1346(b)(1) of title 28, United States Code, is amended by striking ", together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands,".

(o) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(j) of title 18, United States Code, is amended by striking "the District Court of the Virgin Islands,".

(p) SAVINGS PROVISIONS.—

(1) TENURE OF INCUMBENT JUDGES.—A judge of the District Court of the Virgin Islands in office on the effective date of this section shall continue in office until the expiration of the term for which the judge was appointed, or until the judge dies, resigns, or is removed from office, whichever occurs first. When a vacancy occurs on the court on or after the effective date of this section, the President, in accordance with section 133(a) of title 28, United States Code, shall appoint, by and with the advice and consent of the Senate, a district judge for the District of the Virgin Islands.

(2) RETIREMENT RIGHTS AND BENEFITS.—The amendments made by this section shall not affect the

rights under sections 373 and 376 of title 28, United States Code, of any judge of the District Court of the Virgin Islands who retires on or before the effective date of this section or who continues in office after that date under paragraph (1) of this subsection. Service as a judge of the District Court of the Virgin Islands appointed under section 24 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614) shall be included in calculating service under sections 371 and 372 of title 28, United States Code, and shall not be counted for purposes of section 373 of that title, if the judge is reappointed, after the effective date of this section, under section 133(a) of title 28, United States Code, as district judge for the District of the Virgin Islands.

(q) AMENDMENTS TO REVISED ORGANIC ACT OF THE VIRGIN ISLANDS.—

(1) REPEALS.—Sections 24, 25, 26, and 27 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614, 1615, 1616 and 1617) are repealed.

(2) RIGHTS AND PROHIBITIONS.—Section 3 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1561) is amended in the 23d undesignated paragraph—

(A) by inserting "article III;" after "section 9, clauses 2 and 3;" and

(B) by striking "That all offenses against the laws of the United States" and all that follows through "section 22(b) of this Act or" and inserting "That all offenses against the laws of the Virgin Islands which are prosecuted".

(3) JURISDICTION.—Section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611) is amended to read as follows:

"SEC. 21. JURISDICTION OF THE COURTS OF THE VIRGIN ISLANDS.

"(a) JURISDICTION OF THE COURTS OF THE VIRGIN ISLANDS.—The judicial power of the Virgin Islands shall be vested in such trial and appellate courts as may have been or may hereafter be established by local law. The local courts of the Virgin Islands shall have jurisdiction over all causes of action in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction.

"(b) PRACTICE AND PROCEDURE.—The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds,

and the times and places of holding court shall be governed by local law or the rules promulgated by those courts.".

(4) INCOME TAX MATTERS.—Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1612) is amended to read as follows:

"SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.

"The United States District Court for the District of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1986 shall constitute an offense against the Government of the Virgin Islands and may be prosecuted in the name of the Government of the Virgin Islands by the appropriate officers thereof in the United States District Court for the District of the Virgin Islands without the request or consent of the United States attorney for the Virgin Islands.".

(5) APPELLATE JURISDICTION.—Section 23A of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613a) is amended—

(A) by striking "District Court of the Virgin Islands" each place it appears and inserting "United States District Court for the District of the Virgin Islands"; and

(B) in subsection (b), by striking "pursuant to section 24(a) of this Act: Provided, That no more than one of them may be a judge of a court established by local law." and inserting "pursuant to chapter 13 of title 28, United States Code, or a recalled senior judge of the former District Court of the Virgin Islands. The chief judge of the United States Court of Appeals for the Third Circuit may assign to the appellate division a judge of a court of record of the Virgin Islands, except that no more than 1 of the judges sitting in the appellate division at any session may be a judge of a court established by local law.".

(r) ADDITIONAL REFERENCES.—Any reference in any provision of law to the "District Court of the Virgin Islands" shall, on and after the effective date of this section, be deemed to be a reference to the United States District Court for the District of the Virgin Islands.

(s) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment

of this Act. Any complaint or proceeding pending in the District Court of the Virgin Islands on the effective date of this section may be pursued to final determination in the United States District Court for the District of the Virgin Islands, the United States Court of Appeals for the Third Circuit, the United States Court of Appeals for the Federal Circuit, and the Supreme Court of the United States.

SEC. 5205. EFFECTIVE DATE.

Except as provided in section 5204(s), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

Subtitle C—Bankruptcy Judgeships

SEC. 5301. SHORT TITLE.

This subtitle may be cited as the "Enhanced Bankruptcy Judgeship Act of 2005".

SEC. 5302. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGESHIPS.

The following judgeships shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) 1 additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(2) 1 additional bankruptcy judgeship for the eastern district of California.

(3) 2 additional bankruptcy judgeships for the middle district of Florida.

(4) 2 additional bankruptcy judgeships for the northern district of Georgia.

(5) 1 additional bankruptcy judgeship for the southern district of Georgia.

(6) 1 additional bankruptcy judgeship for the eastern district of Kentucky.

(7) 1 additional bankruptcy judgeship for the district of Maryland.

(8) 3 additional bankruptcy judgeships for the eastern district of Michigan.

(9) 1 additional bankruptcy judgeship for the southern district of New York.

(10) 1 additional bankruptcy judgeship for the western district of Pennsylvania.

(11) 1 additional bankruptcy judgeship for the western district of Tennessee.

(12) 1 additional bankruptcy judgeship for the eastern district of Texas.

(13) 1 additional bankruptcy judgeship for the district of Utah.

SEC. 5303. TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following judgeships shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) 1 additional bankruptcy judgeship for the northern district of Florida.

(2) 2 additional bankruptcy judgeships for the middle district of Florida.

(3) 1 additional bankruptcy judgeship for the northern district of Indiana.

(4) 1 additional bankruptcy judgeship for the northern district of Mississippi.

(5) 1 additional bankruptcy judgeship for the district of Nevada.

(6) 1 additional bankruptcy judgeship for the western district of North Carolina.

(7) 1 additional bankruptcy judgeship for the southern district of Ohio.

(b) VACANCIES.—

(1) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in paragraph (2), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under subsection (a) to such office, and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(2) MIDDLE DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the middle district of Florida—

(A) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under subsection (a)(2), and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(c) ELIGIBILITY FOR SUBSEQUENT APPOINTMENTS.—A judge holding office in any of the districts enumerated in subsection (a) shall, at the expiration of the term of the judge (other than by reason of paragraph (1)(B) or (2)(B) of subsection (b)), be eligible for reappointment as a bankruptcy judge in that district.

SEC. 5304. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 102–361.—The following temporary bankruptcy judgeships authorized by the following paragraphs of section 3(a) of Public Law 102–361, as amended by section 307 of Public Law 104–317 (28 U.S.C. 152 note), are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code:

(1) The temporary bankruptcy judgeship for the district of Delaware authorized by paragraph (3).

(2) The temporary bankruptcy judgeship for the southern district of Illinois authorized by paragraph (4).

(3) The temporary bankruptcy judgeship for the district of Puerto Rico authorized by paragraph (7).

(b) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 109–8.—The following temporary bankruptcy judgeships authorized by the following subparagraphs of section 1223(b)(1) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109–8), are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code:

(1) The 4 temporary bankruptcy judgeships for the district of Delaware authorized by subparagraph (C).

(2) The temporary bankruptcy judgeship for the southern district of Georgia authorized by subparagraph (E).

(3) One of the 3 temporary bankruptcy judgeships for the district of Maryland authorized by subparagraph (F).

(4) The temporary bankruptcy judgeship for the eastern district of Michigan authorized by subparagraph (G).

(5) The temporary bankruptcy judgeship for the district of New Jersey authorized by subparagraph (I).

(6) The temporary bankruptcy judgeship for the northern district of New York authorized by subparagraph (K).

(7) The temporary bankruptcy judgeship for the southern district of New York authorized by subparagraph (L).

(8) The temporary bankruptcy judgeship for the eastern district of North Carolina authorized by subparagraph (M).

(9) The temporary bankruptcy judgeship for the eastern district of Pennsylvania authorized by subparagraph (N).

(10) The temporary bankruptcy judgeship for the district of South Carolina authorized by subparagraph (S).

(11) The temporary bankruptcy judgeship for the western district of Tennessee authorized by subparagraph (Q).

SEC. 5305. GENERAL PROVISIONS.

(a) TABLE OF JUDGESHIPS.—In order that the table contained in section 152(a)(2) of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of bankruptcy judgeships authorized under sections 5302 and 5304, such table is amended to read as follows:

"Districts	***Judges***
"Alabama:	
"Northern	*5*
"Middle	*2*
"Southern	*2*
"Alaska	*2*
"Arizona	*7*
"Arkansas:	
"Eastern and Western	*4*
"California:	
"Northern	*9*
"Eastern	*7*
"Central	*21*
"Southern	*4*
"Colorado	*5*
"Connecticut	*3*
"Delaware	*6*
"District of Columbia	*1*
"Florida:	
"Northern	*1*
"Middle	*10*
"Southern	*5*
"Georgia:	
"Northern	*10*
"Middle	*3*
"Southern	*4*
"Hawaii	*1*

"Idaho	*2*
"Illinois:	
"Northern	*10*
"Central	*3*
"Southern	*2*
"Indiana:	
"Northern	*3*
"Southern	*4*
"Iowa:	
"Northern	*2*
"Southern	*2*
"Kansas	*4*
"Kentucky:	
"Eastern	*3*
"Western	*3*
"Louisiana:	
"Eastern	*2*
"Middle	*1*
"Western	*3*
"Maine	*2*
"Maryland	*6*
"Massachusetts	*5*
"Michigan:	
"Eastern	*8*
"Western	*3*
"Minnesota	*4*
"Mississippi:	
"Northern	*1*
"Southern	*2*
"Missouri:	
"Eastern	*3*
"Western	*3*
"Montana	*1*
"Nebraska	*2*
"Nevada	*3*
"New Hampshire	*1*
"New Jersey	*9*
"New Mexico	*2*
"New York:	
"Northern	*3*
"Southern	*11*
"Eastern	*6*
"Western	*3*
"North Carolina:	
"Eastern	*3*
"Middle	*2*
"Western	*2*
"North Dakota	*1*
"Ohio:	
"Northern	*8*
"Southern	*7*
"Oklahoma:	
"Northern	*2*
"Eastern	*1*
"Western	*3*

"Oregon	*5*
"Pennsylvania:	
"Eastern	*6*
"Middle	*2*
"Western	*5*
"Puerto Rico	*3*
"Rhode Island	*1*
"South Carolina	*3*
"South Dakota	*2*
"Tennessee:	
"Eastern	*3*
"Middle	*3*
"Western	*6*
"Texas:	
"Northern	*6*
"Eastern	*3*
"Southern	*6*
"Western	*4*
"Utah	*4*
"Vermont	*1*
"Virgin Islands	*0*
"Virginia:	
"Eastern	*5*
"Western	*3*
"Washington:	
"Eastern	*2*
"Western	*5*
"West Virginia:	
"Northern	*1*
"Southern	*1*
"Wisconsin:	
"Eastern	*4*
"Western	*2*
"Wyoming	*1.".*

(b) SENSE OF CONGRESS.—It is the sense of the Congress that bankruptcy judges in the eastern district of California should conduct bankruptcy proceedings on a daily basis in Bakersfield, California.

SEC. 5306. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

Subtitle D—Ninth Circuit Reorganization

SEC. 5401. SHORT TITLE.

This subtitle may be cited as the "Judicial Administration and Improvements Act of 2005".

SEC. 5402. DEFINITIONS.

In this subtitle:

(1) FORMER NINTH CIRCUIT.—The term "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this subtitle.

(2) NEW NINTH CIRCUIT.—The term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 5403(2)(A).

(3) TWELFTH CIRCUIT.—The term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 5403(2)(B).

SEC. 5403. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking "thirteen" and inserting "fourteen"; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

"Ninth	*California, Guam, Hawaii, Northern Mariana Islands.";*

and

(B) by inserting after the item relating to the eleventh circuit the following:

"Twelfth	*Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.".*

SEC. 5404. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, as amended by section 5202(c) of this Act, is further amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth	*19";*

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth	*14".*

SEC. 5405. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth	*Honolulu, Pasadena, San Francisco.";*

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth	*Las Vegas, Missoula, Phoenix, Portland, Seattle.".*

SEC. 5406. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this subtitle—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 5407. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this subtitle may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 5408. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5406, or

(2) who elects to be assigned under section 5407,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 5409. APPLICATION TO CASES.

The following apply to any case in which, on the day before the effective date of this subtitle, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this subtitle had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this subtitle been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this subtitle, the petition shall be considered by the court of appeals to

which it would have been submitted had this subtitle been in full force and effect at the time that the appeal or other proceeding was filed with the court of appeals.

SEC. 5410. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

"(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

"(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.".

SEC. 5411. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

"(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may, in the public interest—

"(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

"(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

"(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

"(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.".

SEC. 5412. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this subtitle may take such administrative action as may be required to carry out this subtitle and the amendments made by this subtitle. Such court shall cease to exist for administrative purposes 2 years after the date of the enactment of this Act.

SEC. 5413. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect no later than December 31, 2006.

Subtitle E—Authorization of Appropriations

SEC. 5501. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2006 through 2009 such sums as are necessary to carry out subtitles B, C, and D of this title, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this title. Funds appropriated pursuant to this section in any fiscal year shall remain available until expended.

TITLE VI—COMMITTEE ON RESOURCES

Subtitle A—Miscellaneous Amendments Relating to Mining

Sec. 6101. Fees for recordation and location of mining claims.
Sec. 6102. Patents for mining or mill site claims.
Sec. 6103. Mineral examinations for mining on certain lands.
Sec. 6104. Mineral development lands available for purchase.

Sec. 6105. National mining and minerals policy to encourage and promote the productive second use of lands.
Sec. 6106. Regulations.
Sec. 6107. Protection of national parks and wilderness areas.

Subtitle B—Disposal of Public Lands

Chapter 1—Disposal of Certain Public Lands in Nevada

Sec. 6201. Short title.
Sec. 6202. Definitions.
Sec. 6203. Land conveyance.
Sec. 6204. Disposition of proceeds.

Chapter 2—Disposal of Certain Public Lands in Idaho

Sec. 6211. Short title.
Sec. 6212. Definitions.
Sec. 6213. Land conveyance.
Sec. 6214. Disposition of proceeds.

Subtitle C—Oil shale

Sec. 6301. Oil shale and tar sands amendments.

Subtitle D—Sale and Conveyance of Federal Land

Sec. 6401. Collection of receipts from the sale of Federal lands.

Subtitle A—Miscellaneous Amendments Relating to Mining

SEC. 6101. FEES FOR RECORDATION AND LOCATION OF MINING CLAIMS.

(a) Dimensions of Mining Claims.—Section 2320 of the Revised Statutes (30 U.S.C. 23) is amended by striking the second and third sentences and inserting the following: "A mining claim located after May 10, 1872, whether located by one or more persons, and including a claim located before exposure of the vein or lode, may equal, but shall not exceed, 1,500 feet in length along the vein or lode, and shall extend no more than 300 feet on each side of the middle of the vein at the surface, nor shall any claim be limited

by any mining regulation to less than 25 feet on each side of the middle of the vein at the surface, except where adverse rights existing on May 10, 1872, render such limitation necessary.".

(b) RIGHTS SECURED BY CLAIM MAINTENANCE FEES.—Section 2322 of the Revised Statutes (30 U.S.C. 26) is amended by inserting "(a) RIGHTS OF LOCATORS, GENERALLY.—" before the first sentence, and by adding at the end the following:

"(b) RIGHTS SECURED BY MAINTENANCE FEES.—Prior to issuance of a patent, timely payment of the claim maintenance fee secures the rights of the holder of a mining claim, mill site, or tunnel site, both prior to and after discovery of valuable mineral deposits, to use and occupy public lands under the provisions of the general mining law of the United States (as that term is defined in section 2324 of the Revised Statutes) for mineral prospecting, exploration, development, mining, milling, and processing of minerals, reclamation of the claimed lands, and uses reasonably incident thereto. Except for the location fee and the maintenance fees in section 2324 of the Revised Statutes (30 U.S.C. 28), and the patent prices in sections 2325, 2326, 2333, and 2337 of the Revised Statutes (30 U.S.C. 29, 30, 37, and 42), no other fees or fair market value assessments shall be applied to prospecting, exploration, devel-

opment, mining, processing, or reclamation, and uses reasonably incident thereto.".

(c) PATENT REQUIREMENTS.—Section 2325 of the Revised Statutes (30 U.S.C. 29) is amended—

(1) in the second sentence by striking ", or at any time" and inserting "shall include a processing fee of $2,500 for the first claim or site, and $50 for each additional claim contained therein, and at any time"; and

(2) in the fourth sentence by inserting "and if the applicant has complied with the law of discovery" after "publication".

(d) MINING DISTRICT REGULATIONS BY MINERS.—Section 2324 of the Revised Statutes (30 U.S.C. 28) is amended to read as follows:

"SEC. 2324. (a) AUTHORITY TO MAKE REGULATIONS.—The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements:

"(1) The location must be distinctly marked on the ground so that its boundaries can be readily traced.

"(2) All records of mining claims made after May 10, 1872, shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim.

"(b) RECORDATION OF MINING CLAIMS AND ABANDONMENT.—The locator of an unpatented lode or placer mining claim, mill site, or tunnel site located after October 21, 1976, pursuant to the general mining law of the United States shall, within 90 days after the date of location of such claim, file in the office designated by the Secretary of the Interior a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The failure to file such instruments as required by this subsection is deemed conclusively to constitute an abandonment of the mining claim, mill site, or tunnel site by the owner. Such recordation by itself shall not render valid any claim that would not be otherwise valid under applicable law.

"(c) LOCATION FEE.—Notwithstanding any other provision of law, for every mining claim, mill site, or tunnel site located after the date of the enactment of this subsection pursuant to the general mining law of the United States,

the locator shall, at the time the location notice is recorded pursuant to subsection (b), pay a location fee of $100 per claim. This fee shall be in addition to the first year's claim maintenance fee required by subsection (d). Payment of the location fee required by this subsection and the maintenance fee required by subsection (d) secures to the locator the right to use and occupy the public lands for purposes of the general mining law of the United States.

"(d) SCHEDULE OF CLAIM MAINTENANCE FEES.—(1) The holder of each unpatented mining claim, mill site, or tunnel site located pursuant to the general mining law of the United States on or after the date of the enactment of this subsection shall pay to the Secretary of the Interior, on or before September 1 of each year, a claim maintenance fee per claim. Except as provided in paragraph (2), such claim maintenance fee shall be paid in the following amounts:

"(A) $35 per claim for each of the first through fifth maintenance years, beginning with the year the claim was recorded.

"(B) $70 per claim for each of the sixth through tenth maintenance years.

"(C) $125 per claim for each of the eleventh through fifteenth maintenance years.

"(D) $150 per claim for the sixteenth maintenance year and each year thereafter.

"(2) Notwithstanding any other provision of law, for each unpatented mining claim located after the date of enactment of this subsection pursuant to the general mining law of the United States from which minerals are produced, and in lieu of the fee otherwise required by paragraph (1), the holder shall pay to the Secretary of the Interior an annual maintenance fee of $200 per claim.

"(3) The holder of each unpatented mining claim, mill site, or tunnel site located pursuant to the general mining law of the United States before the date of enactment of this subsection shall pay to the Secretary of the Interior for such claim—

"(A) except as provided in subparagraph (B), the claim maintenance fee that applied before such date of enactment; or

"(B) the claim maintenance fee that applies under paragraph (1) or (2), based on the number of years since the original location of the claim, if before the date the payment is due the claim holder—

"(i) notifies the Secretary; and

"(ii) pays to the Secretary a transfer fee of $100.

"(e) ADJUSTMENT OF CLAIM MAINTENANCE FEES.—Claim maintenance fees under subsection (d) shall not be subject to adjustment.

"(f) WORK REQUIREMENT.—(1) The holder of each unpatented mining claim, mill site, or tunnel site located pursuant to the general mining law of the United States after the date of enactment of this subsection, and any holder of a claim that has transferred such claim to the claim maintenance fee schedule under subsection (d), shall conduct physical evaluation and development of the claim or of any contiguous block of claims of which the claim is a part. Exploration and mining activities conducted pursuant to a notice, approved plan of operations, or, in the case of split estate lands, a comparable State or county notice or approval, demonstrates compliance with this section.

"(2) If physical evaluation of the claim is not carried out in accordance with paragraph (1) before the end of the fifth, tenth, or fifteenth maintenance year (beginning with the maintenance year in which the claim is filed), respectively, the claim holder shall be required to pay in the next maintenance year the location fee described in subsection (c), in addition to the annual claim maintenance fee required to be paid for the next maintenance year.

"(g) WAIVER OF CLAIM MAINTENANCE FEE ADJUSTMENTS AND WORK REQUIREMENT.—If a delay in meeting

the work requirements under subsection (f) is the result of pending administrative proceedings, rights-of-way disputes, or litigation concerning issuance or validity of any permit or authorization required under Federal, State, or local law for physical evaluation and development of the claim—

"(1) any increase in the claim maintenance fee that would otherwise apply under subsection (d) and the work requirements under subsection (f) shall be suspended for the claim; and

"(2) claim maintenance fees required to be paid each year for the claim shall be the same as the fee that applied for the year in which the delay first occurred, and no additional location fee will be owed.

"(h) TIME OF PAYMENT.—The claim maintenance fee required under subsection (d) for any maintenance year shall be paid before the commencement of the maintenance year, except that, for the maintenance year in which the location is made the locator shall pay the claim maintenance fee and the location fee imposed under subsection (c) at the time the location notice is recorded with the Bureau of Land Management. The Director of the Bureau of Land Management, after consultation with the Governor of Alaska and by not later than 1 year after the date of enactment of this subsection, may establish a claim maintenance fee

filing date for Alaska claim holders that is not later than 60 days after September 1.

"(i) SMALL MINER CLAIM MAINTENANCE FEE.—(1) In the case of a claim for which the holder certifies in writing to the Secretary that, on the date the payment of any claim maintenance fee under this section was due, the claim holder and all related parties held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands—

"(A) the claim maintenance fee shall be $25 per claim per year for the life of the claim or site held by the claim holder; and

"(B) subsection (f) shall not apply.

"(2) In this subsection:

"(A) With respect to any claim holder, the term 'related party' means—

"(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152), as in effect on the date of the enactment of this paragraph of the claim holder; and

"(ii) a person who controls, is controlled by, or is under common control with the claim holder.

"(B) The terms 'control', 'controls', and 'controlled' include actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

"(j) FAILURE TO PAY.—(1) Failure to pay a claim maintenance fee or a location fee for an unpatented mining claim as required by this section shall subject an unpatented mining claim, mill site, or tunnel site to forfeiture by the claim holder as provided in this subsection.

"(2) The Secretary of the Interior shall provide the claim holder with notice of the failure and the opportunity to cure within 45 calendar days after the claim holder's receipt of the notice.

"(3) The claim holder must, within such 45-day period, pay twice the amount of maintenance fee that would otherwise have been required to be timely paid. The Secretary of the Interior shall specify the amount that must be paid in the notice under paragraph (2).

"(4) Failure by the claim holder to make a timely and proper payment in the amount specified in the notice by the Secretary of the Interior, within 45 days after the claim holder's receipt of the notice, shall constitute a forfeiture

of the mining claim, mill site, or tunnel site by the claim holder by operation of law.

"(k) FAILURE OF CO-OWNER TO CONTRIBUTE.—Upon the failure of any one of several co-owners of a claim to contribute the co-owner's proportion of any claim maintenance fee required by this section, the co-owners who have paid the claim maintenance fee, at the expiration of the year in which any unpaid amount was due, may give such delinquent co-owner personal notice in writing or notice by publication in the newspaper of record for the county in which the land that is subject to the claim or mill site is located, at least once a week for 90 days. If at the expiration of such 90-day period such delinquent co-owner fails or refuses to contribute the co-owner's proportion of the claim maintenance fee required by this section, the co-owner's interest in the claim shall become the property of the other co-owners who have paid the claim maintenance fee. The co-owners who have assumed the interest in the claims shall notify the Secretary of the Interior within 30 days of the assumption.

"(l) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claim for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242).

"(m) GENERAL MINING LAW OF THE UNITED STATES DEFINED; RULE OF CONSTRUCTION.—(1) In this section the term 'general mining law of the United States' means the provisions of law codified in chapters 2, 12, 12A, 15, and 16 of title 30, United States Code, and in sections 161 and 162 of such title.

"(2) Subsections (b) and (c) shall be construed in accordance with judicial decisions under section 314 of the Federal Land Policy and Management Act of 1976, as in effect before the enactment of those subsections.".

(e) CONFORMING AMENDMENTS.—

(1) The Federal Land Policy and Management Act of 1976 is amended—

(A) by striking section 314 (43 U.S.C. 1744);

(B) in the table of contents preceding title I by striking the item relating to section 314; and

(C) in section 302(a) by striking "section 314, section 603," and inserting "section 603".

(2) Section 22 of the Alaska Native Claims Settlement Act is amended by striking "and section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744)".

(3) Section 31(f) of the Mineral Leasing Act (30 U.S.C. 188(f)) is amended by striking "section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744)" and inserting "subsections (b) and (c) of section 2320 of the Revised Statutes (30 U.S.C. 23)".

(4) Section 2511(e) of the Energy Policy Act of 1992 (30 U.S.C. 242(e)) is amended by striking the last sentence.

SEC. 6102. PATENTS FOR MINING OR MILL SITE CLAIMS.

(a) REPEAL OF LIMITATION ON USE OF FUNDS FOR APPLICATIONS FOR PATENT.—Section 408(a) of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54) is repealed.

(b) PAYMENT AMOUNTS.—The Revised Statutes are amended—

(1) in section 2325 (30 U.S.C. 29) by striking "five dollars per acre" and inserting "$1,000 per acre or fair market value, whichever is greater";

(2) in section 2326 (30 U.S.C. 30) by striking "five dollars per acre" and inserting "$1,000 per acre or fair market value, whichever is greater;";

(3) in section 2333 (30 U.S.C. 37)—

(A) by striking "five dollars per acre" and inserting "$1,000 per acre or fair market value, whichever is greater;"; and

(B) by striking "two dollars and fifty cents per acre" and inserting "$1,000 per acre or fair market value, whichever is greater";

(4) in section 2337 (30 U.S.C. 42)—

(A) in subsection (a) by striking "made at the same rate" and all that follows through the end of that sentence and inserting "at the rate of $1,000 per acre or fair market value, whichever is greater."; and

(B) in subsection (b) by striking "made at the rate" and all that follows through the end of that sentence and inserting "at the rate of $1,000 per acre or fair market value, whichever is greater."; and

(5) in section 2325 (30 U.S.C. 29) by adding at the end the following: "For purposes of this section and sections 2326, 2333, and 2337 of the Revised Statutes, fair market value for the patenting of mining claims or mill sites shall be determined by appraisals prepared by an appraiser certified or qualified under applicable professional criteria or State law, in accordance with the Uniform Appraisal

Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice, submitted by the applicant for a patent to the Secretary of the Interior upon application for patent, that is completed within 120 days prior to submission of the application for patent.".

(c) MINERAL DEVELOPMENT WORK REQUIREMENTS.—Section 2325 of the Revised Statutes (30 U.S.C. 29) is amended—

(1) by striking "five hundred dollars' " and inserting "$7,500"; and

(2) by striking "labor has been expended" and inserting "mineral development work has been performed".

(d) PATENT APPLICANTS IN LIMBO.—If the holder of an unpatented mining claim or mill site submitted an application for a mineral patent and paid the patent service charges required by regulation at the time the application was submitted, and the Secretary of the Interior did not complete all actions to process the application before April 26, 1996, the holder of such claim may, at the holder's election, have such application processed under rules that applied before the date of the enactment of this Act.

(e) ALTERNATIVE VALUABLE MINERAL DEPOSIT CRITERIA.—Section 2325 of the Revised Statutes is further

amended by inserting "(a) MANNER FOR OBTAINING PATENT, GENERALLY.—" before the first sentence, and by adding at the end the following:

"(b) ALTERNATIVE VALUABLE MINERAL DEPOSIT CRITERIA.—

"(1) CLAIMS SUBJECT TO ONGOING ACTIVITIES.—The holder of an unpatented mining claim or mill site who is conducting mining activities that meet the definition of a mine under section 3(h) of the Federal Mine Safety and Health Act of 1972 (30 U.S.C. 802(h)) and whose activities with respect to that claim or site are described in section 4 of such Act (30 U.S.C. 803) may receive a patent for any unpatented mining claims on which mining activities are occurring or any mill sites, within the boundaries of an approved plan of operations or a comparable State or county approval. Upon confirmation by the Secretary that minerals being mined are locatable in accordance with Federal law and that actual sales of minerals have taken place, all Federal lands within those boundaries are eligible for patent upon compliance with this section and sections 2327 and 2329 of the Revised Statutes (30 U.S.C. 34, 35).

"(2) DISCLOSED CLAIMS AND MILL SITES.—The holder of an unpatented mining claim or mill site

whose proven and probable reserves are publicly disclosed in compliance with the Securities Act of 1933 (15 U.S.C. 77a) or the Securities Exchange Act of 1934 (15 U.S.C. 78a) may receive a patent for any such unpatented mining claim containing such reserves or for any mill site within the boundaries of a plan of operations or a comparable State or county approval for such reserves. All Federal lands within those boundaries are eligible for patent upon compliance with this section and sections 2327 and 2329 of the Revised Statutes (30 U.S.C. 34, 35).

"(c) MINERAL EXAMINATIONS.—

"(1) IN GENERAL.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party examiner from a list maintained by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in this section and sections 2333 and 2337 of the Revised Statutes (30 U.S.C. 37, 42). The Bureau of Land Management shall have the sole responsibility to maintain the list of qualified third-party examiners.

"(2) TRAINING.—The Director of the Bureau of Land Management shall provide training in the conduct of mineral examinations to qualified individuals. The Director may charge fees to cover the costs of the training.

"(3) QUALIFIED THIRD-PARTY EXAMINER DEFINED.—In this subsection the term 'qualified third-party examiner' means a person who is a registered geologist or registered professional mining engineer licensed to practice within the State in which the claims are located.

"(d) DISPOSITION OF PROCEEDS.—The gross proceeds of conveyances of land under this section and sections 2319, 2330, 2332, 2333, and 2337 of the Revised Statutes (30 U.S.C. 22, 36, 37, 38, 42) shall be used as follows:

"(1) 10 percent shall be deposited into the Federal Energy and Mineral Resource Professional Development Fund.

"(2) 20 percent shall be available to the Secretary of the Army for use, through the Corps of Engineers, for the Restoration of Abandoned Mine Sites Program and section 560 of the Water Resources Development Act of 1999.

"(3) 70 percent shall be deposited into the General Fund of the Treasury.

"(e) ISSUING PATENTS.—If no adverse claim has been filed with the register and the receiver of the proper land office at the expiration of the 60-day period beginning on the date of publication of the notice that an application for mineral patent has been filed under section 2325, 2333 and 2337 of the Revised Statutes (30 U.S.C. 29, 37, 42), the Secretary shall issue the patent not later than 24 months after the date on which the application for patent was filed.

"(f) SMALL MINER PATENT ADJUDICATION AND MINERAL DEVELOPMENT WORK REQUIREMENTS.—The holder of 10 claims or less who applies for a mineral patent under this section or a direct purchase under section 2319 of the Revised Statutes (30 U.S.C. 22) shall pay one-fifth of the processing fees and perform one-fifth of the mineral development work required under this section and section 2319 (30 U.S.C. 22).".

SEC. 6103. MINERAL EXAMINATIONS FOR MINING ON CERTAIN LANDS.

Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is amended by adding at the end the following:

"(e) The Secretary shall not require a mineral examination report, otherwise required to be prepared under regulations promulgated pursuant to this Act, to approve a

plan of operations under such regulations for mining claims and mill sites located on withdrawn lands if such mining claims, mill sites, and blocks of such mining claims and mill sites are contiguous to patented or unpatented mining claims or mill sites where mineral development activities, including mining, have been conducted as authorized by law or regulation.".

SEC. 6104. MINERAL DEVELOPMENT LANDS AVAILABLE FOR PURCHASE.

Section 2319 of the Revised Statutes (30 U.S.C. 22) is amended—

(1) by inserting "(a) LANDS OPEN TO PURCHASE BY CITIZENS.—" before the first sentence; and

(2) by adding at the end the following:

"(b) AVAILABILITY FOR PURCHASE.—Notwithstanding any other provision of law and in compliance with subsection (c), the Secretary of the Interior shall make mineral deposits and the lands that contain them, including lands in which the valuable mineral deposit has been depleted, available for purchase to facilitate sustainable economic development. This subsection shall not apply with respect to any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, or National Trails System, or to any National Conservation Area, any National Recreation Area, any National Monu-

ment, or any unit of the National Wilderness Preservation System.

"(c) APPLICATION.—The holder of mining claims, mill sites, and blocks of such mining claims and mill sites contiguous to patented or unpatented mining claims or mill sites where mineral development activities, including mining, have been conducted as authorized by law or regulation and on which mineral development work has been performed may apply to purchase Federal lands that are subject to the claims. The filing of the proper application shall include such processing fees as are required by section 2325 of the Revised Statutes (30 U.S.C. 29). The applicant or applicants, or their predecessors must present evidence of mineral development work performed on the Federal lands identified and submitted for purchase. Mineral development work upon aggregation must average not less than $7,500 per mining claim or mill site within the Federal lands identified and applied for.

"(d) LAND SURVEYS.—For the purpose of this section, and notwithstanding section 2334 of the Revised Statutes (30 U.S.C. 39), land surveys of the Federal lands applied for shall be paid for by the applicant and shall be completed either by a land surveyor registered in the State where the land is situated, or by such a surveyor also designated by the Bureau of Land Management as a mineral surveyor,

if such mineral surveyors are available, willing, and able to complete such surveys without delay at a cost comparable to the charges of ordinary registered land surveyors.

"(e) DEADLINE FOR CONVEYANCE; PRICE.—Notwithstanding any other provision of law, and not later than one year after the date of the approval of any survey required under subsection (d), the Secretary of the Interior shall convey to the applicant, in return for a payment of $1,000 per acre or fair market value, whichever is greater, all right, title, and interest in and to the Federal land, subject to valid existing rights and the terms and conditions of the Act of August 30, 1890 (26 Stat. 391). For purposes of this subsection, fair market value for mineral development lands available for purchase shall be determined by appraisals prepared by an appraiser certified or qualified under applicable professional criteria or State law, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice, submitted by the applicant to the Secretary of the Interior upon application for purchase, that is completed within 120 days prior to submission of the application. Fair market value for the interest in the land owned by the United States shall be exclusive of, and without regard to, the mineral deposits in the land or the use of such land for mineral activities.

"(f) ENVIRONMENTAL LIABILITY.—Notwithstanding any other Federal, State or local law, the United States shall not be responsible for—

"(1) investigating or disclosing the condition of any property to be conveyed under this section; and

"(2) environmental remediation, waste management, or environmental compliance activities arising from its ownership, occupancy, or management of land and interests therein conveyed under this section with respect to conditions existing at or on the land at the time of the conveyance.

"(g) MINERAL DEVELOPMENT WORK DEFINED.—In this section the term 'mineral development work' means geologic, geochemical or geophysical surveys; road building; exploration drilling, trenching, and exploratory sampling by any other means; construction of underground workings for the purpose of conducting exploration; mine development work; mineral production from underground or surface mines; environmental baseline studies; construction of environmental protection and monitoring systems; environmental reclamation; construction of power and water distribution facilities; engineering, metallurgical, geotechnical, and economic feasibility studies; land surveys; and any other work reasonably incident to mineral development.".

SEC. 6105. NATIONAL MINING AND MINERALS POLICY TO ENCOURAGE AND PROMOTE THE PRODUCTIVE SECOND USE OF LANDS.

Section 101 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended—

(1) in the first sentence—

(A) in clause (2) by inserting "including through remining where appropriate" after "needs,";

(B) in clause (3) by striking "and" after the comma at the end; and

(C) by striking the period at the end and inserting the following: ", and (5) facilitate the productive second use of lands used for mining and energy production.";

(2) in the second sentence by striking "oil shale and uranium" and inserting "oil shale, and uranium, whether located onshore or offshore"; and

(3) in the third sentence—

(A) by striking "the Secretary of the Interior" and inserting "the head of each Federal department and of each independent agency"; and

(B) by striking "his".

SEC. 6106. REGULATIONS.

The Secretary of the Interior shall issue final regulations implementing this subtitle by not later than 180 days after the date of the enactment of this Act.

SEC. 6107. PROTECTION OF NATIONAL PARKS AND WILDERNESS AREAS.

Subject to valid existing rights, nothing in sections 6202, 6203, 6204, 6205, and 6206 of this subtitle shall be construed as affecting any lands within the boundary of any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, or National Trails System, or any National Conservation Area, any National Recreation Area, any National Monument, or any unit of the National Wilderness Preservation System as of the date of the enactment of this Act.

Subtitle B—Disposal of Public Lands

CHAPTER 1—DISPOSAL OF CERTAIN PUBLIC LANDS IN NEVADA

SEC. 6201. SHORT TITLE.

This chapter may be cited as the "Northern Nevada Sustainable Development in Mining Act".

SEC. 6202. DEFINITIONS.

In this chapter:

(1) CLAIMANT.—The term "Claimant" means Coeur Rochester, Inc.

(2) COUNTY.—The term "County" means Pershing County, Nevada.

(3) GENERAL MINING LAW.—The term "general mining law" means the provisions of law codified in chapters 2, 12, 12A, 15, and 16 of title 30, United States Code, and in sections 161 and 162 of such title.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 6203. LAND CONVEYANCE.

(a) CONVEYANCE OF LAND.—Notwithstanding any other provision of law, and not later than 90 days after the date of the enactment of this Act, the Secretary shall convey to the Claimant, in return for a payment of $500 per acre, all right, title, and interest, subject to the terms and conditions of subsection (c), in the approximately 7,000 acres of Federal lands subject to Claimant's mining claims maintained under the general mining law and depicted on the Rochester Sustainable Development Project map on file with the Committee on Resources of the House of Representatives.

(b) EXEMPTION FROM REVIEW, ETC.—Any conveyance of land under this chapter is not subject to review, consultation, or approval under any other Federal law.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—

(1) NO IMPACT ON LEGAL OBLIGATIONS.—Conveyance of the lands pursuant to subsection (a) shall not affect Claimant's legal obligations to comply with applicable Federal mine closure or mine land reclamation laws, or with any other applicable Federal or State requirement relating to closure of the Rochester Mine and use of the land comprising such mine, including any requirement to prepare any environmental impact statement under the National Environmental Policy Act of 1969. Federal reclamation and closure obligations shall not be construed to require removal of infrastructure identified by Claimant as being usable by a post-mining land use.

(2) TITLE TO MATERIALS AND MINERALS.—Notwithstanding any other provision of law, Claimant shall own and have title to all spent ore, waste rock and tailings, and other materials located on lands conveyed pursuant to subsection (a).

(3) VALID EXISTING RIGHTS.—All lands conveyed pursuant to subsection (a) shall be subject to valid existing rights existing as of the date of transfer of title, and Claimant shall succeed to the rights and obligations of the United States with respect to any mining claim, mill site claim, lease, right-of-way,

permit, or other valid existing right to which the property is subject.

(4) ENVIRONMENTAL LIABILITY.—Notwithstanding any other Federal, State or local law, the United States shall not be responsible for—

(A) investigating or disclosing the condition of any property to be conveyed under this chapter; and

(B) environmental remediation, waste management, or environmental compliance activities arising from its ownership, occupancy, or management of land and interests therein conveyed under this chapter with respect to conditions existing at or on the land at the time of the conveyance.

SEC. 6204. DISPOSITION OF PROCEEDS.

The gross proceeds of conveyances of land under this chapter shall be used as follows:

(1) Such sums as are necessary shall be used to cover 100 percent of the administrative costs, not to exceed $20,000, incurred by the Nevada State Office and the Winnemucca Field Office of the Bureau of Land Management in conducting the conveyance under this chapter.

(2) $500,000 shall be paid directly to the State of Nevada for use in the State's abandoned mined land program.

(3) $100,000 shall be paid directly to Pershing County, Nevada.

(4) Proceeds remaining after the payments pursuant to paragraphs (1) through (3) shall be deposited in the general fund of the Treasury.

CHAPTER 2—DISPOSAL OF CERTAIN PUBLIC LANDS IN IDAHO

SEC. 6211. SHORT TITLE.

This chapter may be cited as the "Central Idaho Sustainable Development in Mining Act".

SEC. 6212. DEFINITIONS.

In this chapter:

(1) CLAIMANT.—The term "Claimant" means TDS LLC, an affiliated company of L&W Stone Corporation.

(2) COUNTY.—The term "County" means Custer County, Idaho.

(3) GENERAL MINING LAW.—The term "general mining law" means the provisions of law codified in chapters 2, 12A, 15, and 16 of title 30, United States Code, and in sections 161 and 162 of such title.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 6213. LAND CONVEYANCE.

(a) CONVEYANCE OF LAND.—Notwithstanding any other provision of law, and not later than 90 days after the date of the enactment of this Act, the Secretary shall convey to the Claimant, in return for a payment of $1,000 per acre, all right, title, and interest, subject to the terms and conditions of subsection (c), in the approximately 519.7 acres of Federal lands subject to Claimant's mining claims maintained under the general mining law and depicted as "proposed land exchange alignment" on the Central Idaho Sustainable Development Project map on file with the Committee on Resources of the House of Representatives.

(b) EXEMPTION FROM REVIEW, ETC.—Any conveyance of land under this chapter is not subject to review, consultation, or approval under any other Federal law.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—

(1) TRANSFER OF FEE TITLE IN FEDERAL LANDS.—Notwithstanding any other provision of law, full fee title in approximately 519.7 acres of Federal lands described in subsection (a) shall be transferred to Claimant as depicted as "proposed land exchange alignment" on the Central Idaho Sustainable Development Project map.

(2) VALID EXISTING RIGHTS.—All lands conveyed pursuant to subsection (a) shall be subject to valid existing rights existing as of the date of transfer of title, and Claimant shall succeed to the rights and obligations of the United States with respect to any mining claim, mill site claim, lease, right-of-way, permit, or other valid existing right to which the property is subject.

(3) ENVIRONMENTAL LIABILITY.—Notwithstanding any other Federal, State, or local law, the United States shall not be responsible for—

(A) investigating or disclosing the condition of any property to be conveyed under this chapter; and

(B) environmental remediation, waste management, or environmental compliance activities arising from its ownership, occupancy, or management of land and interests therein conveyed under this chapter with respect to conditions existing at or on the land at the time of the conveyance.

SEC. 6214. DISPOSITION OF PROCEEDS.

Within one year of the completion of the conveyance under this chapter, the gross proceeds of the conveyance shall be used as follows:

(1) Such sums as are necessary shall be used to cover 100 percent of the administrative costs, not to exceed $15,000, incurred by the Idaho State Office and the Challis Field Office of the Bureau of Land Management in conducting conveyances under this chapter.

(2) $200,000 shall be paid directly to the State of Idaho for use in the State Parks program.

(3) $200,000 shall be paid directly to Custer County, Idaho.

(4) Proceeds remaining after the payments pursuant to paragraphs (1) through (3) shall be deposited in the general fund of the Treasury.

Subtitle C—Oil Shale

SEC. 6301. OIL SHALE AND TAR SANDS AMENDMENTS.

(a) COMMERCIAL LEASING OF OIL SHALE AND TAR SANDS.—Section 369(e) of the Energy Policy Act of 2005 (Public Law 109–58) is amended to read as follows:

"(e) COMMENCEMENT OF COMMERCIAL LEASING OF OIL SHALE AND TAR SAND.—Not later than 365 days after publication of the final regulation required by subsection (d), the Secretary shall hold the first oil shale and tar sands lease sales under the regulation, offering for lease a minimum of 35 percent of the Federal lands that are geologically prospective for oil shale and tar sands within Colo-

rado, Utah, and Wyoming. The environmental impact statement developed in support of the commercial leasing program for oil shale and tar sands as required by subsection (c) is deemed to provide adequate environmental analysis for all oil shale and tar sands lease sales conducted within the first 10 years after promulgation of the regulation, and such sales shall not be subject to further environmental analysis.".

(b) REPEAL OF REQUIREMENT TO ESTABLISH PAYMENTS.—Section 369(o) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927) is repealed.

(c) TREATMENT OF REVENUES.—Section 21 of the Mineral Leasing Act (30 U.S.C. 241) is amended by adding at the end the following:

"(e) REVENUES.—

"(1) IN GENERAL.—Notwithstanding the provisions of section 35, all revenues received from and under an oil shale or tar sands lease shall be disposed of as provided in this subsection.

"(2) ROYALTY RATES FOR COMMERCIAL LEASES.—

"(A) INITIAL PRODUCTION.—For the first 10 years after initial production under each oil shale or tar sands lease issued under the com-

mercial leasing program established under subsection (d), the Secretary shall set the royalty rate at not less than 1 percent nor more than 3 percent of the gross value of production. However, the initial production period royalty rate set by the Secretary shall not apply to production occurring more than 15 years after the date of issuance of the lease.

"(B) SUBSEQUENT PERIODS.—After the periods of time specified in subparagraph (A), the Secretary shall set the royalty rate on each oil shale or tar sands lease issued under the commercial leasing program established under subsection (d) at not less than 6 percent nor more than 9 percent of the gross value of production.

"(C) REDUCTION.—The Secretary shall reduce any royalty otherwise required to be paid under subparagraphs (A) and (B) under any oil shale or tar sands lease on a sliding scale based upon market price, with a 10 percent reduction if the monthly average price of NYMEX West Texas Intermediate crude oil at Cushing, Oklahoma, (WTI) drops below $50 (in 2005 dollars) for the month in which the production is sold, and an 80 percent reduction if the monthly aver-

age price of WTI drops below $30 (in 2005 dollars) for the month in which the production is sold.

"(3) DISPOSITION OF REVENUES.—

"(A) DEPOSIT.—The Secretary shall deposit into a separate account in the Treasury all revenues derived from any oil shale or tar sands lease.

"(B) ALLOCATIONS TO STATES AND LOCAL POLITICAL SUBDIVISIONS.—The Secretary shall allocate 50 percent of the revenues deposited into the account established under subparagraph (A) to the State within the boundaries of which the leased lands are located, with a portion of that to be paid directly by the Secretary to the State's local political subdivisions as provided in this paragraph.

"(C) TRANSMISSION OF ALLOCATIONS.—

"(i) IN GENERAL.—Not later than the last business day of the month after the month in which the revenues were received, the Secretary shall transmit—

"(I) to each State two-thirds of such State's allocations under subparagraph (B), and in accordance with

clauses (ii) and (iii) to certain county-equivalent and municipal political subdivisions of such State a total of one-third of such State's allocations under subparagraph (B), together with all accrued interest thereon; and

"(II) the remaining balance of such revenues deposited into the account that are not allocated under subparagraph (B), together with interest thereon, shall be transmitted to the miscellaneous receipts account of the Treasury, except that until a lease has been in production for 10 years 80 percent of such remaining balance derived from a lease shall be paid in accordance with subclause (I).

"(ii) ALLOCATIONS TO CERTAIN COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall under clause (i)(I) make equitable allocations of the revenues to county-equivalent political subdivisions that the Secretary determines are closely associated with the leasing and production of oil

shale and tar sands, under a formula that the Secretary shall determine by regulation.

"(iii) ALLOCATIONS TO MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each county-equivalent political subdivision under clause (ii) shall be further allocated to the county-equivalent political subdivision and any municipal political subdivisions located partially or wholly within the boundaries of the county-equivalent political subdivision on an equitable basis under a formula that the Secretary shall determine by regulation.

"(D) INVESTMENT OF DEPOSITS.—The deposits in the Treasury account established under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(E) USE OF FUNDS.—A recipient of funds under this subsection may use the funds for any lawful purpose as determined by State law.

Funds allocated under this subsection to States and local political subdivisions may be used as matching funds for other Federal programs without limitation. Funds allocated to local political subdivisions under this subsection may not be used in calculation of payments to such local political subdivisions under programs for payments in lieu of taxes or other similar programs.

"(F) NO ACCOUNTING REQUIRED.—No recipient of funds under this subsection shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law.

"(4) DEFINITIONS.—In this subsection:

"(A) COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term 'county-equivalent political subdivision' means a political jurisdiction immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a State.

"(B) MUNICIPAL POLITICAL SUBDIVISION.—The term 'municipal political subdivision' means a municipality located within and part of a

county, parish, borough in Alaska, or other equivalent subdivision of a State.".

Subtitle D—Sale and Conveyance of Federal Land

SEC. 6401. COLLECTION OF RECEIPTS FROM THE SALE OF FEDERAL LANDS.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary shall make the lands described in subsection (b) available for immediate sale through a competitive sale process at fair market value. Requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the sale of lands under this section.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the following:

(1) Poplar Point (Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 28 of 28).

(2) U.S. Reservations 44, 45, 46, 47, 48 and 49 (Map Number 869/80460, Dated July 2005, p. 13 of 28).

(3) U.S. Reservation 251 (Map Number 869/80460, Dated July 2005, p. 14 of 28).

(4) U.S. Reservation 8 (Map Number 869/80460, Dated July 2005, p. 15 of 28).

(5) U.S. Reservation 17A (Map Number 869/80460, Dated July 2005, p. 20 of 28).

(6) U.S. Reservation 484 (Map Number 869/80460, Dated July 2005, p. 21 of 28).

(7) U.S. Reservation 721, 722 and 723 (Map Number 869/80460, Dated July 2005, p. 25 of 28).

(8) Certain land adjacent to Robert F. Kennedy Stadium Parking Lot (Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 26 of 28).

(9) United States Reservation 243, 244, 245, and 247 (Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 22 of 28).

The Secretary may retain from sale proceeds and spend without further appropriation up to $1,000,000 each year to implement land sales under this subsection, including hiring contractors and appraisers

(c) POPLAR POINT.—

(1) RETENTION OF FUNDS.—The Secretary may retain $10,000,000 from funds received from the sale of land under subsection (b)(1) and spend such funds without further appropriations for the purposes of complying with subparagraph (2).

(2) CONTINUITY OF OPERATION.—Before the sale and development of land referred to in subparagraph (b)(1), the Secretary shall ensure that the existing facilities and related properties (including necessary easements and utilities related thereto) occupied or otherwise used by the National Park Service are either withheld from any sale and remain in operation at its current location or will be relocated to suitable replacement facilities along the Anacostia River in the District of Columbia using funds made available by subparagraph (c)(1).

(d) CONVEYANCE OF LANDS TO THE DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary shall immediately convey all right, title, and interest of the United States in the lands described in this subsection to the District of Columbia upon enactment of this section. Requirements under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) shall not apply to the conveyance of lands under this subsection.

(2) LANDS DESCRIBED.—The lands referred to in this subsection are as follows:

(A) United States Reservation 128, 129, 130, 298 and 299 (Transfer and Conveyance of

Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 23 of 28).

(B) United States Reservation 174 (Map Number 869/80460, Dated July 2005, p. 27 of 28).

(C) United States Reservation 277A and 277C (Map Number 869/80460, Dated July 2005, p. 16 of 28).

(D) United States Reservation 343D and 343E (Map Number 869/80460, Dated July 2005, p. 24 or 28).

(E) United States Reservation 404 (Map Number 869/80460, Dated July 2005, p. 12 of 28).

(F) United States Reservation 451 (Map Number 869/80460, Dated July 2005, p. 11 of 28).

(G) United States Reservation 470 (Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 17 of 28).

(e) TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN PROPERTIES.—

(1) IN GENERAL.—Upon the date of the enactment of this subsection, administrative jurisdiction over each of the following properties (owned by the United States and as depicted on listed maps) is hereby transferred from the District of Columbia to the United States for administration by the Secretary of the Interior through the Director of the National Park Service:

(A) An unimproved portion of Audubon Terrace Northwest, located east of Linnean Avenue Northwest, that is within U.S. Reservation 402 (Audubon Terrace, NW, Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 2 of 28) .

(B) An unimproved portion of Barnaby Street Northwest, north of Aberfoyle Place Northwest, that abuts U.S. Reservation 545 (Barnaby Avenue, NW, Map Number 869/80460, Dated July 2005, p. 3 of 28).

(C) A portion of Canal Street Southwest, and a portion of V Street Southwest, each which abuts U.S. Reservation (Canal and V Streets, SW, Map Number 869/80460, Dated July 2005, p. 3 of 28).

(D) Unimproved streets and alleys at Fort Circle Park located within the boundaries of U.S. Reservation 497 (Fort Circle Park, Map Number 869/80460, Dated July 2005, p. 5 of 28)".

(E) An unimproved portion of Western Avenue Northwest, north of Oregon Avenue Northwest, that abuts U.S. Reservation 339 (Western Avenue, NW, Map Number 869/80460, Dated July 2005, p. 6 of 28).

(F) An unimproved portion of 17th Street Northwest, south of Shepard Street Northwest, that abuts U.S. Reservation 339 (17th Street, NW, Map Number 869/80460, Dated July 2005, p. 7 of 28).

(G) An unimproved portion of 30th Street Northwest, north of Broad Branch Road, Northwest, that is within the boundaries of U.S. Reservation 515 (30th Street, NW, Map Number 869/80460, Dated July 2005, p. 8 of 28).

(H) Land over I–395 at Washington Avenue, Southwest (Lands over I–395 at Washington Avenue, SW, Map Number 869/80460, Dated July 2005, p. 9 of 28).

(I) A portion of U.S. Reservation 357 at Whitehaven Parkway Northwest, previously transferred to the District of Columbia in conjunction with the former proposal for a residence for the Mayor of the District of Columbia (Portion of U.S. Reservation 357, Transfer and Conveyance of Properties in the District of Columbia, Map Number 869/80460, Dated July 2005, p. 10 of 28).

(2) USE OF CERTAIN PROPERTY FOR MEMORIAL.—In the case of the property for which administrative jurisdiction is transferred under paragraph (1)(H), the property shall be used as the site for the establishment of a memorial to honor disabled veterans of the United States Armed Forces authorized to be established by the Disabled Veterans' LIFE Memorial Foundation by Public Law 106–348 (114 Stat. 1358; 40 U.S.C. 8903 note), except that the District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the site for tunnels, walls, footings, and related facilities.

TITLE VII—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SEC. 7001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act entitled "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes", approved August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended—

(1) by striking "9 cents per ton" and all that follows through "2002," the first place it appears and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010,"; and

(2) by striking "27 cents per ton" and all that follows through "2002," and inserting "13.5 cents per ton, not to exceed 67.5 cents per ton per annum, for fiscal years 2006 through 2010,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "9 cents per ton" and all that follows through "and 2 cents" and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents

per ton in any one year, for fiscal years 2006 through 2010, and 2 cents".

(c) OFFSETTING RECEIPTS.—Increased tonnage charges collected as a result of the amendments made by subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities related to marine safety, search and rescue, and aids to navigation.

TITLE VIII—COMMITTEE ON WAYS AND MEANS

SEC. 8001. SHORT TITLE.

This title may be cited as the "Work, Marriage, and Family Promotion Reconciliation Act of 2005".

SEC. 8002. TABLE OF CONTENTS.

The table of contents of this title is as follows:

Sec. 8001. Short title.
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Sec. 8004. Findings.

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Subtitle G—Repeal of continued dumping and subsidy offset

Sec. 8701. Repeal of continued dumping and subsidy offset.

Subtitle H—Effective date

Sec. 8801. Effective date.

1 ***SEC. 8003. REFERENCES.***

2 *Except as otherwise expressly provided, wherever in*
3 *this title an amendment or repeal is expressed in terms of*
4 *an amendment to, or repeal of, a section or other provision,*
5 *the amendment or repeal shall be considered to be made*
6 *to a section or other provision of the Social Security Act.*

7 ***SEC. 8004. FINDINGS.***

8 *The Congress makes the following findings:*

9 *(1) The Temporary Assistance for Needy Fami-*
10 *lies (TANF) Program established by the Personal Re-*
11 *sponsibility and Work Opportunity Reconciliation*
12 *Act of 1996 (Public Law 104–193) has succeeded in*

moving families from welfare to work and reducing child poverty.

(A) There has been a dramatic increase in the employment of current and former welfare recipients. The percentage of working recipients reached an all-time high in fiscal year 1999 and continued steady in fiscal years 2000 and 2001. In fiscal year 2003, 31.3 percent of adult recipients were counted as meeting the work participation requirements. All States but one met the overall participation rate standard in fiscal year 2003, as did the District of Columbia and Puerto Rico.

(B) Earnings for welfare recipients remaining on the rolls have also increased significantly, as have earnings for female-headed households. The increases have been particularly large for the bottom 2 income quintiles, that is, those women who are most likely to be former or present welfare recipients.

(C) Welfare dependency has plummeted. As of June 2004, 1,969,909 families and 4,727,291 individuals were receiving assistance. Accordingly, the number of families in the welfare caseload and the number of individuals receiving

cash assistance declined 55 percent and 61 percent, respectively, since the enactment of TANF.

(D) The child poverty rate continued to decline between 1996 and 2003, falling 14 percent from 20.5 to 17.6 percent. Child poverty rates for African-American and Hispanic children have also fallen dramatically during the past 7 years.

(2) As a Nation, we have made substantial progress in reducing teen pregnancies and births, slowing increases in nonmarital childbearing, and improving child support collections and paternity establishment.

(A) The birth rate to teenagers declined 30 percent from its high in 1991 to 2002. The 2002 teenage birth rate of 43.0 per 1,000 women aged 15–19 is the lowest recorded birth rate for teenagers.

(B) During the period from 1991 through 2001, teenage birth rates fell in all States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. Declines also have spanned age, racial, and ethnic groups. There has been success in lowering the birth rate for both younger and older teens. The birth rate for those 15–17 years of age has declined 40 percent

since 1991, and the rate for those 18 and 19 has declined 23 percent. The rate for African American teens—until recently the highest—has declined the most—42 percent from 1991 through 2002.

(C) Since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, child support collections within the child support enforcement system have grown every year, increasing from $12,000,000,000 in fiscal year 1996 to over $21,000,000,000 in fiscal year 2003. The number of paternities established or acknowledged in fiscal year 2003 (over 1,500,000) includes a more than 100 percent increase through in-hospital acknowledgement programs—862,043 in 2003 compared to 324,652 in 1996. Child support collections were made in nearly 8,000,000 cases in fiscal year 2003, significantly more than the almost 4,000,000 cases having a collection in 1996.

(3) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 gave States great flexibility in the use of Federal funds to develop innovative programs to help families leave welfare

and begin employment and to encourage the formation of 2-parent families.

(A) Total Federal and State TANF expenditures in fiscal year 2003 were $26,300,000,000, up from $25,400,000,000 in fiscal year 2002 and $22,600,000,000 in fiscal year 1999. This increased spending is attributable to significant new investments in supportive services in the TANF program, such as child care and activities to support work.

(B) Since the welfare reform effort began there has been a dramatic increase in work participation (including employment, community service, and work experience) among welfare recipients, as well as an unprecedented reduction in the caseload because recipients have left welfare for work.

(C) States are making policy choices and investment decisions best suited to the needs of their citizens.

(i) To expand aid to working families, almost all States disregard a portion of a family's earned income when determining benefit levels.

(ii) Most States increased the limits on countable assets above the former Aid to Families with Dependent Children (AFDC) program. Every State has increased the vehicle asset level above the prior AFDC limit for a family's primary automobile.

(iii) States are experimenting with programs to promote marriage and paternal involvement. Over half of the States have eliminated restrictions on 2-parent families. Many States use TANF, child support, or State funds to support community-based activities to help fathers become more involved in their children's lives or strengthen relationships between mothers and fathers.

(4) However, despite this success, there is still progress to be made. Policies that support and promote more work, strengthen families, and enhance State flexibility are necessary to continue to build on the success of welfare reform.

(A) Significant numbers of welfare recipients still are not engaged in employment-related activities. While all States have met the overall work participation rates required by law, in an

average month, only 41 percent of all families with an adult participated in work activities that were countable toward the State's participation rate. In fiscal year 2003, four jurisdictions failed to meet the more rigorous 2-parent work requirements, and 25 jurisdictions (States and territories) are not subject to the 2-parent requirements, most because they moved their 2-parent cases to separate State programs where they are not subject to a penalty for failing the 2-parent rates.

(B) In 2002, 34 percent of all births in the U.S. were to unmarried women. And, with fewer teens entering marriage, the proportion of births to unmarried teens has increased dramatically (80 percent in 2002 versus 30 percent in 1970). The negative consequences of out-of-wedlock birth on the mother, the child, the family, and society are well documented. These include increased likelihood of welfare dependency, increased risks of low birth weight, poor cognitive development, child abuse and neglect, and teen parenthood, and decreased likelihood of having an intact marriage during adulthood.

(C) There has been a dramatic rise in cohabitation as marriages have declined. It is estimated that 40 percent of children are expected to live in a cohabiting-parent family at some point during their childhood. Children in single-parent households and cohabiting-parent households are at much higher risk of child abuse than children in intact married families.

(D) Children who live apart from their biological fathers, on average, are more likely to be poor, experience educational, health, emotional, and psychological problems, be victims of child abuse, engage in criminal behavior, and become involved with the juvenile justice system than their peers who live with their married, biological mother and father. A child living with a single mother is nearly 5 times as likely to be poor as a child living in a married-couple family. In 2003, in married-couple families, the child poverty rate was 8.6 percent, and in households headed by a single mother the poverty rate was 41.7 percent.

(5) Therefore, it is the sense of the Congress that increasing success in moving families from welfare to work, as well as in promoting healthy marriage and

other means of improving child well-being, are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by this title) is intended to serve those ends.

Subtitle A—TANF

SEC. 8101. PURPOSES.

Section 401(a) (42 U.S.C. 601(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "increase" and inserting "improve child well-being by increasing";

(2) in paragraph (1), by inserting "and services" after "assistance";

(3) in paragraph (2), by striking "parents on government benefits" and inserting "families on government benefits and reduce poverty"; and

(4) in paragraph (4), by striking "two-parent families" and inserting "healthy, 2-parent married families, and encourage responsible fatherhood".

SEC. 8102. FAMILY ASSISTANCE GRANTS.

(a) EXTENSION OF AUTHORITY.—Section 403(a)(1)(A) (42 U.S.C. 603(a)(1)(A)) is amended—

(1) by striking "1996, 1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2006 through 2010"; and

(2) by inserting "payable to the State for the fiscal year" before the period.

(b) STATE FAMILY ASSISTANCE GRANT.—Section 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by striking "fiscal year 2003" and inserting "each of fiscal years 2006 through 2010".

(c) MATCHING GRANTS FOR THE TERRITORIES.—Section 1108(b)(2) (42 U.S.C. 1308(b)(2)) is amended by striking "1997 through 2003" and inserting "2006 through 2010".

SEC. 8103. PROMOTION OF FAMILY FORMATION AND HEALTHY MARRIAGE.

(a) STATE PLANS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

"(vii) Encourage equitable treatment of married, 2-parent families under the program referred to in clause (i).".

(b) HEALTHY MARRIAGE PROMOTION GRANTS; REPEAL OF BONUS FOR REDUCTION OF ILLEGITIMACY RATIO.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) HEALTHY MARRIAGE PROMOTION GRANTS.—

"(A) AUTHORITY.—The Secretary shall award competitive grants to States, territories, and tribal organizations for not more than 50 percent of the cost of developing and implementing innovative programs to promote and support healthy, married, 2-parent families.

"(B) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—Funds provided under subparagraph (A) shall be used to support any of the following programs or activities:

"(i) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(ii) Education in high schools on the value of marriage, relationship skills, and budgeting.

"(iii) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

"(iv) Pre-marital education and marriage skills training for engaged couples and

for couples or individuals interested in marriage.

"(v) Marriage enhancement and marriage skills training programs for married couples.

"(vi) Divorce reduction programs that teach relationship skills.

"(vii) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

"(viii) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(C) VOLUNTARY PARTICIPATION.—

"(i) IN GENERAL.—Participation in a program or activity described in any of clauses (iii) through (viii) of subparagraph (B) shall be voluntary.

"(ii) REQUIREMENTS FOR RECEIPT OF FUNDS.—The Secretary may not award a grant under this paragraph to an applicant for the grant, unless—

"(I) the application for the grant describes—

"(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

"(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs or activities is voluntary, and to inform potential participants that their participation is voluntary; and

"(II) the applicant agrees that, as a condition of receipt of the grant, the applicant will consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities funded with the grant.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2006 through 2010 $100,000,000 for grants under this paragraph.".

(c) COUNTING OF SPENDING ON NON-ELIGIBLE FAMILIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION AND MAINTENANCE OF HEALTHY, 2-PARENT MARRIED FAMILIES, OR ENCOURAGE RESPONSIBLE FATHERHOOD.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(V) COUNTING OF SPENDING ON NON-ELIGIBLE FAMILIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION AND MAINTENANCE OF HEALTHY, 2-PARENT MARRIED FAMILIES, OR ENCOURAGE RESPONSIBLE FATHERHOOD.—The term 'qualified State expenditures' includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).".

SEC. 8104. SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.

Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended—

(1) in subparagraph (E)—

(A) by striking "1998, 1999, 2000, and 2001" and inserting "2006 through 2009"; and

(B) by striking ", in a total amount not to exceed $800,000,000";

(2) in subparagraph (G), by striking "2001" and inserting "2009"; and

(3) by striking subparagraph (H) and inserting the following:

"(H) FURTHER PRESERVATION OF GRANT AMOUNTS.—A State that was a qualifying State under this paragraph for fiscal year 2004 or any prior fiscal year shall be entitled to receive from the Secretary for each of fiscal years 2006 through 2009 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.".

SEC. 8105. ELIMINATION OF HIGH PERFORMANCE BONUS.

Section 403(a) (42 U.S.C. 603(a)) is amended by striking paragraph (4).

SEC. 8106. CONTINGENCY FUND.

(a) DEPOSITS INTO FUND.—Section 403(b)(2) (42 U.S.C. 603(b)(2)) is amended—

(1) by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2006 through 2010"; and

(2) by striking all that follows "$2,000,000,000" and inserting a period.

(b) GRANTS.—Section 403(b)(3)(C)(ii) (42 U.S.C. 603(b)(3)(C)(ii)) is amended by striking "fiscal years 1997 through 2006" and inserting "fiscal years 2006 through 2010".

(c) DEFINITION OF NEEDY STATE.—Clauses (i) and (ii) of section 403(b)(5)(B) (42 U.S.C. 603(b)(5)(B)) are amended by inserting after "1996" the following: "and the Food Stamp Act of 1977 as in effect during the corresponding 3-month period in the fiscal year preceding such most recently concluded 3-month period".

(d) ANNUAL RECONCILIATION: FEDERAL MATCHING OF STATE EXPENDITURES ABOVE "MAINTENANCE OF EFFORT" LEVEL.—Section 403(b)(6) (42 U.S.C. 603(b)(6)) is amended—

(1) in subparagraph (A)(ii)—

(A) by adding "and" at the end of subclause (I);

(B) by striking "; and" at the end of subclause (II) and inserting a period; and

(C) by striking subclause (III);

(2) in subparagraph (B)(i)(II), by striking all that follows "section 409(a)(7)(B)(iii))" and inserting a period;

(3) by amending subparagraph (B)(ii)(I) to read as follows:

"(I) the qualified State expenditures (as defined in section 409(a)(7)(B)(i)) for the fiscal year; plus"; and

(4) by striking subparagraph (C).

(e) CONSIDERATION OF CERTAIN CHILD CARE EXPENDITURES IN DETERMINING STATE COMPLIANCE WITH CONTINGENCY FUND MAINTENANCE OF EFFORT REQUIREMENT.—Section 409(a)(10) (42 U.S.C. 609(a)(10)) is amended—

(1) by striking "(other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part" and inserting a close parenthesis; and

(2) by striking "excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994,".

(f) EFFECTIVE DATE.—The amendments made by subsections (c), (d), and (e) shall take effect on October 1, 2007.

SEC. 8107. USE OF FUNDS.

(a) GENERAL RULES.—Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by striking "in any manner that" and inserting "for any purposes or activities for which".

(b) TREATMENT OF INTERSTATE IMMIGRANTS.—

(1) STATE PLAN PROVISION.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended by striking clause (i) and redesignating clauses (ii) through (iv) as clauses (i) through (iii), respectively.

(2) USE OF FUNDS.—Section 404 (42 U.S.C. 604) is amended by striking subsection (c).

(c) INCREASE IN AMOUNT TRANSFERABLE TO CHILD CARE.—Section 404(d)(1) (42 U.S.C. 604(d)(1)) is amended by striking "30" and inserting "50".

(d) INCREASE IN AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—Section 404(d)(2)(B) (42 U.S.C. 604(d)(2)(B)) is amended to read as follows:

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A), the applicable percent is 10 percent for fiscal year 2006 and each succeeding fiscal year.".

(e) CLARIFICATION OF AUTHORITY OF STATES TO USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS TO PROVIDE TANF BENEFITS AND SERVICES.—Section 404(e) (42 U.S.C. 604(e)) is amended to read as follows:

"(e) AUTHORITY TO CARRYOVER OR RESERVE CERTAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FUTURE CONTINGENCIES.—

"(1) CARRYOVER.—A State or tribe may use a grant made to the State or tribe under this part for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part.

"(2) CONTINGENCY RESERVE.—A State or tribe may designate any portion of a grant made to the State or tribe under this part as a contingency reserve for future needs, and may use any amount so designated to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part. If a State or tribe so designates a portion of such a grant, the State shall, on an annual basis, include in its report under section 411(a) the amount so designated.".

SEC. 8108. REPEAL OF FEDERAL LOAN FOR STATE WELFARE PROGRAMS.

(a) REPEAL.—Effective as of October 1, 2006, section 406 (42 U.S.C. 606) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 409(a) (42 U.S.C. 609(a)) is amended by striking paragraph (6).

(2) Section 412 (42 U.S.C. 612) is amended by striking subsection (f) and redesignating subsections (g) through (i) as subsections (f) through (h), respectively.

(3) Section 1108(a)(2) (42 U.S.C. 1308(a)(2)) is amended by striking "406,".

SEC. 8109. UNIVERSAL ENGAGEMENT AND FAMILY SELF-SUFFICIENCY PLAN REQUIREMENTS.

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

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work or alternative self-sufficiency activities (as defined by the State), consistent with section 407(e)(2).

"(iii) Require families receiving assistance under the program to engage in activities in accordance with family self-sufficiency plans developed pursuant to section 408(b).".

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

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

"(b) FAMILY SELF-SUFFICIENCY PLANS.—

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

"(A) assess, in the manner deemed appropriate by the State, the skills, prior work experience, and employability of each work-eligible individual (as defined in section 407(b)(2)(C)) receiving assistance under the State program funded under this part;

"(B) establish for each family that includes such an individual, in consultation as the State deems appropriate with the individual, a self-sufficiency plan that specifies appropriate activities described in the State plan submitted pursuant to section 402, including direct work activities as appropriate designed to assist the family in achieving their maximum degree of self-sufficiency, and that provides for the ongoing participation of the individual in the activities;

"(C) require, at a minimum, each such individual to participate in activities in accordance with the self-sufficiency plan;

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

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

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

"(A) in the case of a family that, as of October 1, 2005, is not receiving assistance from the State program funded under this part, not later than 60 days after the family first receives assistance on the basis of the most recent application for the assistance; or

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

"(3) STATE DISCRETION.—A State shall have sole discretion, consistent with section 407, to define and design activities for families for purposes of this subsection, to develop methods for monitoring and reviewing progress pursuant to this subsection, and to make modifications to the plan as the State deems

appropriate to assist the individual in increasing their degree of self-sufficiency.

"(4) RULE OF INTERPRETATION.—Nothing in this part shall preclude a State from—

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

"(B) using job search or other appropriate job readiness or work activities to assess the employability of individuals and to determine appropriate future engagement activities.".

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

(A) in the paragraph heading, by inserting "OR ESTABLISH FAMILY SELF-SUFFICIENCY PLAN" after "RATES"; and

(B) in subparagraph (A), by inserting "or 408(b)" after "407(a)".

SEC. 8110. WORK PARTICIPATION REQUIREMENTS.

(a) IN GENERAL.—Section 407 (42 U.S.C. 607) is amended by striking all that precedes subsection (b)(3) and inserting the following:

"SEC. 407. WORK PARTICIPATION REQUIREMENTS.

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

"(1) 50 percent for fiscal year 2006;

"(2) 55 percent for fiscal year 2007;

"(3) 60 percent for fiscal year 2008;

"(4) 65 percent for fiscal year 2009; and

"(5) 70 percent for fiscal year 2010 and each succeeding fiscal year.

"(b) CALCULATION OF PARTICIPATION RATES.—

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

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

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

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

"(ii) 160 multiplied by the number of counted families for the State for the month.

"(B) COUNTED FAMILIES DEFINED.—

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

"(ii) STATE OPTION TO EXCLUDE CERTAIN FAMILIES.—At the option of a State, the term 'counted family' shall not include—

"(I) a family in the first month for which the family receives assistance from a State program funded under this part on the basis of the most recent application for such assistance;

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

"(III) a family that is subject to a sanction under this part or part D, but that has not been subject to such a

sanction for more than 3 months (whether or not consecutive) in the preceding 12-month period.

"(iii) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN OR TRIBAL WORK PROGRAM.—At the option of a State, the term 'counted family' may include families in the State that are receiving assistance under a tribal family assistance plan approved under section 412 or under a tribal work program to which funds are provided under this part.

"(C) WORK-ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term 'work-eligible individual' means an individual—

"(i) who is married or a single head of household; and

"(ii) whose needs are (or, but for sanctions under this part or part D, would be) included in determining the amount of cash assistance to be provided to the family under the State program funded under this part.".

(b) RECALIBRATION OF CASELOAD REDUCTION CREDIT.—

(1) IN GENERAL.—Section 407(b)(3)(A)(ii) (42 U.S.C. 607(b)(3)(A)(ii)) is amended to read as follows:

"(ii) the average monthly number of families that received assistance under the State program funded under this part during the base year.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the close parenthesis and inserting "and the eligibility criteria in effect during the then applicable base year".

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

"(C) BASE YEAR DEFINED.—In this paragraph, the term 'base year' means, with respect to a fiscal year—

"(i) if the fiscal year is fiscal year 2006, fiscal year 1996;

"(ii) if the fiscal year is fiscal year 2007, fiscal year 1998;

"(iii) if the fiscal year is fiscal year 2008, fiscal year 2001; or

"(iv) if the fiscal year is fiscal year 2009 or any succeeding fiscal year, the then 4th preceding fiscal year.".

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

"(4) SUPERACHIEVER CREDIT.—

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

"(i) the amount (if any) of the superachiever credit applicable to the State; or

"(ii) the number of percentage points (if any) by which the minimum participation rate required by subsection (a) for the fiscal year exceeds 50 percent.

"(B) SUPERACHIEVER STATE.—For purposes of subparagraph (A), a State is a superachiever State if the State caseload for fiscal year 2001 has declined by at least 60 percent from the State caseload for fiscal year 1995.

"(C) AMOUNT OF CREDIT.—The super-achiever credit applicable to a State is the number of percentage points (if any) by which the decline referred to in subparagraph (B) exceeds 60 percent.

"(D) DEFINITIONS.—In this paragraph:

"(i) STATE CASELOAD FOR FISCAL YEAR 2001.—The term 'State caseload for fiscal year 2001' means the average monthly number of families that received assistance during fiscal year 2001 under the State program funded under this part.

"(ii) STATE CASELOAD FOR FISCAL YEAR 1995.—The term 'State caseload for fiscal year 1995' means the average monthly number of families that received aid under the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.".

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

"(c) COUNTABLE HOURS.—

"(1) DEFINITION.—In subsection (b)(2), the term 'countable hours' means, with respect to a family for

a month, the total number of hours in the month in which any member of the family who is a work-eligible individual is engaged in a direct work activity or other activities specified by the State (excluding an activity that does not address a purpose specified in section 401(a)), subject to the other provisions of this subsection.

"(2) LIMITATIONS.—Subject to such regulations as the Secretary may prescribe:

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

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

"(3) SPECIAL RULES.—For purposes of paragraph (1):

"(A) PARTICIPATION IN QUALIFIED ACTIVITIES.—

"(i) IN GENERAL.—If, with the approval of the State, the work-eligible individuals in a family are engaged in 1 or more qualified activities for an average total of at least 24 hours per week in a month, then all such engagement in the month shall be considered engagement in a direct work activity, subject to clause (iii).

"(ii) QUALIFIED ACTIVITY DEFINED.—The term 'qualified activity' means an activity specified by the State (subject to the exclusion described in paragraph (1)) that meets such standards and criteria as the State may specify, including—

"(I) substance abuse counseling or treatment;

"(II) rehabilitation treatment and services;

"(III) work-related education or training directed at enabling the family member to work;

"(IV) job search or job readiness assistance; and

"(V) any other activity that addresses a purpose specified in section 401(a).

"(iii) LIMITATION.—

"(I) IN GENERAL.—Except as provided in subclause (II), clause (i) shall not apply to a family for more than 3 months in any period of 24 consecutive months.

"(II) SPECIAL RULE APPLICABLE TO EDUCATION AND TRAINING.—A State may, on a case-by-case basis, apply clause (i) to a work-eligible individual so that participation by the individual in education or training, if needed to permit the individual to complete a certificate program or other work-related education or training directed at enabling the individual to fill a known job need in a local area, may be considered countable hours with respect to the family of the individual for

not more than 4 months in any period of 24 consecutive months.

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

"(i) maintains satisfactory attendance at secondary school or the equivalent in the month; or

"(ii) participates in education directly related to employment for an average of at least 20 hours per week in the month.

"(d) DIRECT WORK ACTIVITY.—In this section, the term 'direct work activity' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) on-the-job training;

"(5) supervised work experience; or

"(6) supervised community service.".

(e) PENALTIES AGAINST INDIVIDUALS.—Section 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as follows:

"(1) REDUCTION OR TERMINATION OF ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in paragraph (2), if an individual in a family receiving assistance under a State program funded under this part fails to engage in activities required in accordance with this section, or other activities required by the State under the program, and the family does not otherwise engage in activities in accordance with the self-sufficiency plan established for the family pursuant to section 408(b), the State shall—

"(i) if the failure is partial or persists for not more than 1 month—

"(I) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the failure occurs; or

"(II) terminate all assistance to the family, subject to such good cause

exceptions as the State may establish; or

"(ii) if the failure is total and persists for at least 2 consecutive months, terminate all cash payments to the family including qualified State expenditures (as defined in section 409(a)(7)(B)(i)) for at least 1 month and thereafter until the State determines that the individual has resumed full participation in the activities, subject to such good cause exceptions as the State may establish.

"(B) SPECIAL RULE.—

"(i) IN GENERAL.—In the event of a conflict between a requirement of clause (i)(II) or (ii) of subparagraph (A) and a requirement of a State constitution, or of a State statute that, before 1966, obligated local government to provide assistance to needy parents and children, the State constitutional or statutory requirement shall control.

"(ii) LIMITATION.—Clause (i) of this subparagraph shall not apply after the 1-

year period that begins with the date of the enactment of this subparagraph.".

(f) CONFORMING AMENDMENTS.—

(1) Section 407(f) (42 U.S.C. 607(f)) is amended in each of paragraphs (1) and (2) by striking "work activity described in subsection (d)" and inserting "direct work activity".

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

SEC. 8111. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—Section 409(a)(7) (42 U.S.C. 609(a)(7)) is amended—

(1) in subparagraph (A), by striking "fiscal year 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, or 2007" and inserting "fiscal year 2006, 2007, 2008, 2009, 2010, or 2011"; and

(2) in subparagraph (B)(ii)—

(A) by inserting "preceding" before "fiscal year"; and

(B) by striking "for fiscal years 1997 through 2006,".

(b) STATE SPENDING ON PROMOTING HEALTHY MARRIAGE.—

(1) IN GENERAL.—Section 404 (42 U.S.C. 604) is amended by adding at the end the following:

"(l) MARRIAGE PROMOTION.—A State, territory, or tribal organization to which a grant is made under section 403(a)(2) may use a grant made to the State, territory, or tribe under any other provision of section 403 for marriage promotion activities, and the amount of any such grant so used shall be considered State funds for purposes of section 403(a)(2).".

(2) FEDERAL TANF FUNDS USED FOR MARRIAGE PROMOTION DISREGARDED FOR PURPOSES OF MAINTENANCE OF EFFORT REQUIREMENT.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)), as amended by section 8103(c) of this Act, is amended by adding at the end the following:

"(VI) EXCLUSION OF FEDERAL TANF FUNDS USED FOR MARRIAGE PROMOTION ACTIVITIES.—Such term does not include the amount of any grant made to the State under section 403 that is expended for a marriage promotion activity.".

SEC. 8112. PERFORMANCE IMPROVEMENT.

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

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by redesignating clause (vi) and clause (vii) (as added by section 8103(a) of this Act) as clauses (vii) and (viii), respectively; and

(ii) by striking clause (v) and inserting the following:

"(v) The document shall—

"(I) describe how the State will pursue ending dependence of needy families on government benefits and reducing poverty by promoting job preparation and work;

"(II) describe how the State will encourage the formation and maintenance of healthy 2-parent married families, encourage responsible fatherhood, and prevent and reduce the incidence of out-of-wedlock pregnancies;

"(III) include specific, numerical, and measurable performance objectives for accomplishing subclauses (I) and (II); and

"(IV) describe the methodology that the State will use to measure State performance in relation to each such objective.

"(vi) Describe any strategies and programs the State may be undertaking to address—

"(I) employment retention and advancement for recipients of assistance under the program, including placement into high-demand jobs, and whether the jobs are identified using labor market information;

"(II) efforts to reduce teen pregnancy;

"(III) services for struggling and noncompliant families, and for clients with special problems; and

"(IV) program integration, including the extent to which employment and training services under the program are provided through the One-Stop delivery system created under the Workforce Investment Act of 1998, and the extent to which former recipients of

such assistance have access to additional core, intensive, or training services funded through such Act.''; and

(B) in subparagraph (B), by striking clause (iii) (as so redesignated by section 8107(b)(1) of this Act) and inserting the following:

''(iii) The document shall describe strategies and programs the State is undertaking to engage religious organizations in the provision of services funded under this part and efforts related to section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

''(iv) The document shall describe strategies to improve program management and performance.''; and

(2) in paragraph (4), by inserting ''and tribal'' after ''that local''.

(b) CONSULTATION WITH STATE REGARDING PLAN AND DESIGN OF TRIBAL PROGRAMS.—Section 412(b)(1) (42 U.S.C. 612(b)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(3) by adding at the end the following:

"(G) provides an assurance that the State in which the tribe is located has been consulted regarding the plan and its design.".

(c) PERFORMANCE MEASURES.—Section 413 (42 U.S.C. 613) is amended by adding at the end the following:

"(k) PERFORMANCE IMPROVEMENT.—The Secretary, in consultation with the States, shall develop uniform performance measures designed to assess the degree of effectiveness, and the degree of improvement, of State programs funded under this part in accomplishing the purposes of this part.".

(d) ANNUAL RANKING OF STATES.—Section 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking "long-term private sector jobs" and inserting "private sector jobs, the success of the recipients in retaining employment, the ability of the recipients to increase their wages".

SEC. 8113. DATA COLLECTION AND REPORTING.

(a) CONTENTS OF REPORT.—Section 411(a)(1)(A) (42 U.S.C. 611(a)(1)(A)) is amended—

(1) in the matter preceding clause (i), by inserting "and on families receiving assistance under State programs funded with other qualified State expenditures (as defined in section 409(a)(7)(B))" before the colon;

(2) in clause (vii), by inserting "and minor parent" after "of each adult";

(3) in clause (viii), by striking "and educational level";

(4) in clause (ix), by striking ", and if the latter 2, the amount received";

(5) in clause (x)—

(A) by striking "each type of"; and

(B) by inserting before the period "and, if applicable, the reason for receipt of the assistance for a total of more than 60 months";

(6) in clause (xi), by striking the subclauses and inserting the following:

"(I) Subsidized private sector employment.

"(II) Unsubsidized employment.

"(III) Public sector employment, supervised work experience, or supervised community service.

"(IV) On-the-job training.

"(V) Job search and placement.

"(VI) Training.

"(VII) Education.

"(VIII) Other activities directed at the purposes of this part, as speci-

fied in the State plan submitted pursuant to section 402.";

(7) in clause (xii), by inserting "and progress toward universal engagement" after "participation rates";

(8) in clause (xiii), by striking "type and";

(9) in clause (xvi), by striking subclause (II) and redesignating subclauses (III) through (V) as subclauses (II) through (IV), respectively; and

(10) by adding at the end the following:

"(xviii) The date the family first received assistance from the State program on the basis of the most recent application for such assistance.

"(xix) Whether a self-sufficiency plan is established for the family in accordance with section 408(b).

"(xx) With respect to any child in the family, the marital status of the parents at the birth of the child, and if the parents were not then married, whether the paternity of the child has been established.".

(b) USE OF SAMPLES.—Section 411(a)(1)(B) (42 U.S.C. 611(a)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking "a sample" and inserting "samples"; and

(B) by inserting before the period ", except that the Secretary may designate core data elements that must be reported on all families"; and

(2) in clause (ii), by striking "funded under this part" and inserting "described in subparagraph (A)".

(c) REPORT ON FAMILIES THAT BECOME INELIGIBLE TO RECEIVE ASSISTANCE.—Section 411(a) (42 U.S.C. 611(a)) is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (5) (as so redesignated) the following:

"(6) REPORT ON FAMILIES THAT BECOME INELIGIBLE TO RECEIVE ASSISTANCE.—The report required by paragraph (1) for a fiscal quarter shall include for each month in the quarter the number of families and total number of individuals that, during the month, became ineligible to receive assistance under the State program funded under this part (broken down by the number of families that become so ineligible due to earnings, changes in family composition that result

in increased earnings, sanctions, time limits, or other specified reasons).".

(d) REGULATIONS.—Section 411(a)(7) (42 U.S.C. 611(a)(7)) is amended—

(1) by inserting "and to collect the necessary data" before "with respect to which reports";

(2) by striking "subsection" and inserting "section"; and

(3) by striking "in defining the data elements" and all that follows and inserting ", the National Governors' Association, the American Public Human Services Association, the National Conference of State Legislatures, and others in defining the data elements.".

(e) ADDITIONAL REPORTS BY STATES.—Section 411 (42 U.S.C. 611) is amended—

(1) by redesignating subsection (b) as subsection (e); and

(2) by inserting after subsection (a) the following:

"(b) ANNUAL REPORTS ON PROGRAM CHARACTERISTICS.—Not later than 90 days after the end of fiscal year 2006 and each succeeding fiscal year, each eligible State shall submit to the Secretary a report on the characteristics of the State program funded under this part and other State

programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)). The report shall include, with respect to each such program, the program name, a description of program activities, the program purpose, the program eligibility criteria, the sources of program funding, the number of program beneficiaries, sanction policies, and any program work requirements.

"(c) MONTHLY REPORTS ON CASELOAD.—Not later than 3 months after the end of a calendar month that begins 1 year or more after the enactment of this subsection, each eligible State shall submit to the Secretary a report on the number of families and total number of individuals receiving assistance in the calendar month under the State program funded under this part.

"(d) ANNUAL REPORT ON PERFORMANCE IMPROVEMENT.—Beginning with fiscal year 2007, not later than January 1 of each fiscal year, each eligible State shall submit to the Secretary a report on achievement and improvement during the preceding fiscal year under the numerical performance goals and measures under the State program funded under this part with respect to each of the matters described in section 402(a)(1)(A)(v).".

(f) ANNUAL REPORTS TO CONGRESS BY THE SECRETARY.—Section 411(e), as so redesignated by subsection (e) of this section, is amended—

(1) in the matter preceding paragraph (1), by striking "and each fiscal year thereafter" and inserting "and by July 1 of each fiscal year thereafter";

(2) in paragraph (2), by striking "families applying for assistance," and by striking the last comma; and

(3) in paragraph (3), by inserting "and other programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" before the semicolon.

(g) INCREASED ANALYSIS OF STATE SINGLE AUDIT REPORTS.—Section 411 (42 U.S.C. 611) is amended by adding at the end the following:

"(f) INCREASED ANALYSIS OF STATE SINGLE AUDIT REPORTS.—

"(1) IN GENERAL.—Within 3 months after a State submits to the Secretary a report pursuant to section 7502(a)(1)(A) of title 31, United States Code, the Secretary shall analyze the report for the purpose of identifying the extent and nature of problems related to the oversight by the State of nongovernmental entities with respect to contracts entered into by such entities with the State program funded under this part, and determining what additional actions may

be appropriate to help prevent and correct the problems.

"(2) INCLUSION OF PROGRAM OVERSIGHT SECTION IN ANNUAL REPORT TO THE CONGRESS.—The Secretary shall include in each report under subsection (e) a section on oversight of State programs funded under this part, including findings on the extent and nature of the problems referred to in paragraph (1), actions taken to resolve the problems, and to the extent the Secretary deems appropriate make recommendations on changes needed to resolve the problems.".

SEC. 8114. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) TRIBAL FAMILY ASSISTANCE GRANT.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2006 through 2010".

(b) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—Section 412(a)(2)(A) (42 U.S.C. 612(a)(2)(A)) is amended by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2006 through 2010".

SEC. 8115. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) SECRETARY'S FUND FOR RESEARCH, DEMONSTRATIONS, AND TECHNICAL ASSISTANCE.—Section 413 (42 U.S.C. 613), as amended by section 8112(c) of this Act, is further amended by adding at the end the following:

"(l) FUNDING FOR RESEARCH, DEMONSTRATIONS, AND TECHNICAL ASSISTANCE.—

"(1) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $102,000,000 for each of fiscal years 2006 through 2010, which shall be available to the Secretary for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to States, Indian tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under this part, which shall be expended primarily on activities described in section 403(a)(2)(B), and which shall be in addition to any other funds made available under this part. The Secretary may not provide an entity with funds made available under this paragraph unless the entity agrees that, as a condition of receipt of the funds for a program or activity described in any of clauses (iii) through (viii) of section

403(a)(2)(B), the entity will comply with subclauses (I) and (II) of section 403(a)(2)(C)(ii).

"(2) SET ASIDE FOR DEMONSTRATION PROJECTS FOR COORDINATION OF PROVISION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

"(A) IN GENERAL.—Of the amounts made available under paragraph (1) for a fiscal year, $2,000,000 shall be awarded on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

"(B) USE OF FUNDS.—A grant made to such a project shall be used—

"(i) to improve case management for families eligible for assistance from such a tribal program;

"(ii) for supportive services and assistance to tribal children in out-of-home placements and the tribal families caring for such children, including families who adopt such children; and

"(iii) for prevention services and assistance to tribal families at risk of child abuse and neglect.

"(C) REPORTS.—The Secretary may require a recipient of funds awarded under this paragraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this paragraph.".

(b) FUNDING OF STUDIES AND DEMONSTRATIONS.—Section 413(h)(1) (42 U.S.C. 613(h)(1)) is amended in the matter preceding subparagraph (A) by striking "1997 through 2002" and inserting "2006 through 2010".

(c) REPORT ON ENFORCEMENT OF CERTAIN AFFIDAVITS OF SUPPORT AND SPONSOR DEEMING.—Not later than March 31, 2006, the Secretary of Health and Human Services, in consultation with the Attorney General, shall submit to the Congress a report on the enforcement of affidavits of support and sponsor deeming as required by section 421, 422, and 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(d) REPORT ON COORDINATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary

of Labor shall jointly submit a report to the Congress describing common or conflicting data elements, definitions, performance measures, and reporting requirements in the Workforce Investment Act of 1998 and part A of title IV of the Social Security Act, and, to the degree each Secretary deems appropriate, at the discretion of either Secretary, any other program administered by the respective Secretary, to allow greater coordination between the welfare and workforce development systems.

SEC. 8116. STUDY BY THE CENSUS BUREAU.

(a) IN GENERAL.—Section 414(a) (42 U.S.C. 614(a)) is amended to read as follows:

"(a) IN GENERAL.—The Bureau of the Census shall implement or enhance a longitudinal survey of program participation, developed in consultation with the Secretary and made available to interested parties, to allow for the assessment of the outcomes of continued welfare reform on the economic and child well-being of low-income families with children, including those who received assistance or services from a State program funded under this part, and, to the extent possible, shall provide State representative samples. The content of the survey should include such information as may be necessary to examine the issues of out-of-wedlock childbearing, marriage, welfare dependency and compliance with work requirements, the beginning and end-

ing of spells of assistance, work, earnings and employment stability, and the well-being of children.".

(b) APPROPRIATION.—Section 414(b) (42 U.S.C. 614(b)) is amended—

(1) by striking "1996," and all that follows through "2003" and inserting "2006 through 2010"; and

(2) by adding at the end the following: "Funds appropriated under this subsection shall remain available through fiscal year 2010 to carry out subsection (a).".

SEC. 8117. DEFINITION OF ASSISTANCE.

(a) IN GENERAL.—Section 419 (42 U.S.C. 619) is amended by adding at the end the following:

"(6) ASSISTANCE.—

"(A) IN GENERAL.—The term 'assistance' means payment, by cash, voucher, or other means, to or for an individual or family for the purpose of meeting a subsistence need of the individual or family (including food, clothing, shelter, and related items, but not including costs of transportation or child care).

"(B) EXCEPTION.—The term 'assistance' does not include a payment described in subparagraph (A) to or for an individual or family

on a short-term, nonrecurring basis (as defined by the State in accordance with regulations prescribed by the Secretary).".

(b) CONFORMING AMENDMENTS.—

(1) Section 404(a)(1) (42 U.S.C. 604(a)(1)) is amended by striking "assistance" and inserting "aid".

(2) Section 404(f) (42 U.S.C. 604(f)) is amended by striking "assistance" and inserting "benefits or services".

(3) Section 408(a)(5)(B)(i) (42 U.S.C. 608(a)(5)(B)(i)) is amended in the heading by striking "ASSISTANCE" and inserting "AID".

(4) Section 413(d)(2) (42 U.S.C. 613(d)(2)) is amended by striking "assistance" and inserting "aid".

SEC. 8118. TECHNICAL CORRECTIONS.

(a) Section 409(c)(2) (42 U.S.C. 609(c)(2)) is amended by inserting a comma after "appropriate".

(b) Section 411(a)(1)(A)(ii)(III) (42 U.S.C. 611(a)(1)(A)(ii)(III)) is amended by striking the last close parenthesis.

(c) Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is amended by striking "section" and inserting "sections".

(d)(1) Section 413 (42 U.S.C. 613) is amended by striking subsection (g) and redesignating subsections (h) through (j) and subsections (k) and (l) (as added by sections 8112(c) and 8115(a) of this Act, respectively) as subsections (g) through (k), respectively.

(2) Each of the following provisions is amended by striking "413(j)" and inserting "413(i)":

(A) Section 403(a)(5)(A)(ii)(III) (42 U.S.C. 603(a)(5)(A)(ii)(III)).

(B) Section 403(a)(5)(F) (42 U.S.C. 603(a)(5)(F)).

(C) Section 403(a)(5)(G)(ii) (42 U.S.C. 603(a)(5)(G)(ii)).

(D) Section 412(a)(3)(B)(iv) (42 U.S.C. 612(a)(3)(B)(iv)).

SEC. 8119. FATHERHOOD PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Promotion and Support of Responsible Fatherhood and Healthy Marriage Act of 2005".

(b) FATHERHOOD PROGRAM.—

(1) IN GENERAL.—Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) is amended by adding at the end the following:

"SEC. 117. FATHERHOOD PROGRAM.

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

'PART C—FATHERHOOD PROGRAM

'SEC. 441. FINDINGS AND PURPOSES.

'(a) FINDINGS.—The Congress finds that there is substantial evidence strongly indicating the urgent need to promote and support involved, committed, and responsible fatherhood, and to encourage and support healthy marriages between parents raising children, including data demonstrating the following:

'(1) In approximately 84 percent of cases where a parent is absent, that parent is the father.

'(2) If current trends continue, half of all children born today will live apart from one of their parents, usually their father, at some point before they turn 18.

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

'(4) Committed and responsible fathering during infancy and early childhood contributes to the development of emotional security, curiosity, and math and verbal skills.

'(5) An estimated 19,400,000 children (27 percent) live apart from their biological father.

'(6) Forty percent of children under age 18 not living with their biological father had not seen their father even once in the last 12 months, according to national survey data.

'(b) PURPOSES.—The purposes of this part are:

'(1) To provide for projects and activities by public entities and by nonprofit community entities, including religious organizations, designed to test promising approaches to accomplishing the following objectives:

'(A) Promoting responsible, caring, and effective parenting through counseling, mentoring, and parenting education, dissemination of educational materials and information on parenting skills, encouragement of positive father involvement, including the positive involvement of nonresident fathers, and other methods.

'(B) Enhancing the abilities and commitment of unemployed or low-income fathers to provide material support for their families and to avoid or leave welfare programs by assisting them to take full advantage of education, job training, and job search programs, to improve work habits and work skills, to secure career advancement by activities such as outreach and in-

formation dissemination, coordination, as appropriate, with employment services and job training programs, including the One-Stop delivery system established under title I of the Workforce Investment Act of 1998, encouragement and support of timely payment of current child support and regular payment toward past due child support obligations in appropriate cases, and other methods.

'(C) Improving fathers' ability to effectively manage family business affairs by means such as education, counseling, and mentoring in matters including household management, budgeting, banking, and handling of financial transactions, time management, and home maintenance.

'(D) Encouraging and supporting healthy marriages and married fatherhood through such activities as premarital education, including the use of premarital inventories, marriage preparation programs, skills-based marriage education programs, marital therapy, couples counseling, divorce education and reduction programs, divorce mediation and counseling, relationship skills enhancement programs, including those designed to reduce child abuse and domestic vio-

lence, and dissemination of information about the benefits of marriage for both parents and children.

'(2) Through the projects and activities described in paragraph (1), to improve outcomes for children with respect to measures such as increased family income and economic security, improved school performance, better health, improved emotional and behavioral stability and social adjustment, and reduced risk of delinquency, crime, substance abuse, child abuse and neglect, teen sexual activity, and teen suicide.

'(3) To evaluate the effectiveness of various approaches and to disseminate findings concerning outcomes and other information in order to encourage and facilitate the replication of effective approaches to accomplishing these objectives.

'SEC. 442. DEFINITIONS.

'In this part, the terms "Indian tribe" and "tribal organization" have the meanings given them in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

'SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.

'(a) IN GENERAL.—The Secretary may make grants for fiscal years 2006 through 2010 to public and nonprofit

community entities, including religious organizations, and to Indian tribes and tribal organizations, for demonstration service projects and activities designed to test the effectiveness of various approaches to accomplish the objectives specified in section 441(b)(1).

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

'(1) PROJECT DESCRIPTION.—A statement including—

'(A) a description of the project and how it will be carried out, including the geographical area to be covered and the number and characteristics of clients to be served, and how it will address each of the 4 objectives specified in section 441(b)(1); and

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

'(2) EXPERIENCE AND QUALIFICATIONS.—A demonstration of ability to carry out the project, by

means such as demonstration of experience in successfully carrying out projects of similar design and scope, and such other information as the Secretary may find necessary to demonstrate the entity's capacity to carry out the project, including the entity's ability to provide the non-Federal share of project resources.

'(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

'(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about diseases and conditions transmitted through substance abuse and sexual contact, including HIV/AIDS, and to coordinate with providers of services addressing such problems, as appropriate.

'(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for the programs under parts A, B, and D of this title, including programs under title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

'(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

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

'(8) COOPERATION WITH SECRETARY'S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary's evaluation of projects assisted under this section, by means including random assignment of clients to service recipient and control

groups, if determined by the Secretary to be appropriate, and affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE GRANTS.—In order to be eligible for a grant under this section in an amount under $25,000 per fiscal year, an entity shall submit an application to the Secretary containing the following:

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

'(2) QUALIFICATIONS.—Such information as the Secretary may require as to the capacity of the entity to carry out the project, including any previous experience with similar activities.

'(3) COORDINATION WITH RELATED PROGRAMS.—As required by the Secretary in appropriate cases, an undertaking to coordinate and cooperate with State and local entities responsible for specific programs relating to the objectives of the project in-

cluding, as appropriate, jobs programs and programs serving children and families.

'(4) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

'(5) COOPERATION WITH SECRETARY'S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary's evaluation of projects assisted under this section, by means including affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(d) CONSIDERATIONS IN AWARDING GRANTS.—

'(1) DIVERSITY OF PROJECTS.—In awarding grants under this section, the Secretary shall seek to achieve a balance among entities of differing sizes, entities in differing geographic areas, entities in urban and in rural areas, and entities employing differing methods of achieving the purposes of this section, including working with the State agency responsible for the administration of part D to help fathers satisfy child support arrearage obligations.

'(2) PREFERENCE FOR PROJECTS SERVING LOW-INCOME FATHERS.—In awarding grants under this

section, the Secretary may give preference to applications for projects in which a majority of the clients to be served are low-income fathers.

'(e) FEDERAL SHARE.—

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

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

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

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

'SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION PROJECTS.

'(a) IN GENERAL.—The Secretary may make grants under this section for fiscal years 2006 through 2010 to eligible entities (as specified in subsection (b)) for 2 multicity,

multistate projects demonstrating approaches to achieving the objectives specified in section 441(b)(1). One of the projects shall test the use of married couples to deliver program services.

'(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section must be a national nonprofit fatherhood promotion organization that meets the following requirements:

'(1) EXPERIENCE WITH FATHERHOOD PROGRAMS.—The organization must have substantial experience in designing and successfully conducting programs that meet the purposes described in section 441.

'(2) EXPERIENCE WITH MULTICITY, MULTISTATE PROGRAMS AND GOVERNMENT COORDINATION.—The organization must have experience in simultaneously conducting such programs in more than 1 major metropolitan area in more than 1 State and in coordinating such programs, where appropriate, with State and local government agencies and private, nonprofit agencies (including community-based and religious organizations), including State or local agencies responsible for child support enforcement and workforce development.

'(c) APPLICATION REQUIREMENTS.—In order to be eligible for a grant under this section, an entity must submit to the Secretary an application that includes the following:

'(1) QUALIFICATIONS.—

'(A) ELIGIBLE ENTITY.—A demonstration that the entity meets the requirements of subsection (b).

'(B) OTHER.—Such other information as the Secretary may find necessary to demonstrate the entity's capacity to carry out the project, including the entity's ability to provide the non-Federal share of project resources.

'(2) PROJECT DESCRIPTION.—A description of and commitments concerning the project design, including the following:

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

'(i) provide for the project to be conducted in at least 3 major metropolitan areas;

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

'(iii) demonstrate that there is a sufficient number of potential clients to allow for the random selection of individuals to participate in the project and for comparisons with appropriate control groups composed of individuals who have not participated in such projects; and

'(iv) demonstrate that the project is designed to direct a majority of project resources to activities serving low-income fathers (but the project need not make services available on a means-tested basis).

'(B) OVERSIGHT, EVALUATION, AND ADJUSTMENT COMPONENT.—An agreement that the entity—

'(i) in consultation with the evaluator selected pursuant to section 445, and as required by the Secretary, will modify the project design, initially and (if necessary) subsequently throughout the duration of the project, in order to facilitate ongoing and final oversight and evaluation of project operation and outcomes (by means including, to the maximum extent feasible, random assignment of clients to service recipient and

control groups), and to provide for mid-course adjustments in project design indicated by interim evaluations;

'(ii) will submit to the Secretary revised descriptions of the project design as modified in accordance with clause (i); and

'(iii) will cooperate fully with the Secretary's ongoing oversight and ongoing and final evaluation of the project, by means including affording the Secretary access to the project and to project-related records and documents, staff, and clients.

'(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

'(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about

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

'(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for the programs funded under parts A, B, and D of this title, programs under title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

'(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits (in addition to those required under the preceding provisions of paragraph (2)) as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

'(d) FEDERAL SHARE.—

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

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

'SEC. 445. EVALUATION.

'(a) IN GENERAL.—The Secretary, directly or by contract or cooperative agreement, shall evaluate the effectiveness of service projects funded under sections 443 and 444 from the standpoint of the purposes specified in section 441(b)(1).

'(b) EVALUATION METHODOLOGY.—Evaluations under this section shall—

'(1) include, to the maximum extent feasible, random assignment of clients to service delivery and control groups and other appropriate comparisons of groups of individuals receiving and not receiving services;

'(2) describe and measure the effectiveness of the projects in achieving their specific project goals; and

'(3) describe and assess, as appropriate, the impact of such projects on marriage, parenting, domestic violence, child abuse and neglect, money management, employment and earnings, payment of child support, and child well-being, health, and education.

'(c) EVALUATION REPORTS.—The Secretary shall publish the following reports on the results of the evaluation:

'(1) An implementation evaluation report covering the first 24 months of the activities under this part to be completed by 36 months after initiation of such activities.

'(2) A final report on the evaluation to be completed by September 30, 2013.

'SEC. 446. PROJECTS OF NATIONAL SIGNIFICANCE.

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

'(1) COLLECTION AND DISSEMINATION OF INFORMATION.—Assisting States, communities, and private entities, including religious organizations, in efforts to promote and support marriage and responsible fatherhood by collecting, evaluating, developing, and making available (through the Internet and by other means) to all interested parties information regarding approaches to accomplishing the objectives specified in section 441(b)(1).

'(2) MEDIA CAMPAIGN.—Developing, promoting, and distributing to interested States, local governments, public agencies, and private nonprofit organi-

zations, including charitable and religious organizations, a media campaign that promotes and encourages involved, committed, and responsible fatherhood and married fatherhood.

'(3) TECHNICAL ASSISTANCE.—Providing technical assistance, including consultation and training, to public and private entities, including community organizations and faith-based organizations, in the implementation of local fatherhood promotion programs.

'(4) RESEARCH.—Conducting research related to the purposes of this part.

'SEC. 447. NONDISCRIMINATION.

'The projects and activities assisted under this part shall be available on the same basis to all fathers and expectant fathers able to benefit from such projects and activities, including married and unmarried fathers and custodial and noncustodial fathers, with particular attention to low-income fathers, and to mothers and expectant mothers on the same basis as to fathers.

'SEC. 448. AUTHORIZATION OF APPROPRIATIONS; RESERVATION FOR CERTAIN PURPOSE.

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

'(b) RESERVATION.—Of the amount appropriated under this section for each fiscal year, not more than 15 percent shall be available for the costs of the multicity, multicounty, multistate demonstration projects under section 444, evaluations under section 445, and projects of national significance under section 446.'.

"(b) INAPPLICABILITY OF EFFECTIVE DATE PROVISIONS.—Section 116 shall not apply to the amendment made by subsection (a) of this section.".

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

"Sec. 117. Fatherhood program.".

SEC. 8120. STATE OPTION TO MAKE TANF PROGRAMS MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAINING CENTERS.

Section 408 of the Social Security Act (42 U.S.C. 608) is amended by adding at the end the following:

"(h) STATE OPTION TO MAKE TANF PROGRAMS MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAINING CENTERS.—For purposes of section 121(b) of the Workforce Investment Act of 1998, a State program funded under part A of title IV of the Social Security Act shall be considered a program referred to in paragraph (1)(B) of such section, unless, after the date of the enactment of this sub-

section, the Governor of the State notifies the Secretaries of Health and Human Services and Labor in writing of the decision of the Governor not to make the State program a mandatory partner.".

SEC. 8121. SENSE OF THE CONGRESS.

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

SEC. 8122. DRUG TESTING OF APPLICANTS FOR AND RECIPIENTS OF ASSISTANCE.

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

"(12) DRUG TESTING REQUIREMENTS.—A State to which a grant is made under section 403(a) for a fiscal year shall—

"(A) require an individual who has applied for, or is a recipient of, assistance from the State program funded under this part to undergo a physical test designed to detect the use by the individual of any controlled substance (as defined in section 102(6) of the Controlled Substances Act) if the State has reason to believe that the person has unlawfully used such a substance recently;

"(B) if a test administered pursuant to this paragraph indicates that an individual has so

used such a substance recently, or if the State otherwise determines (on the basis of such indicators as the State may establish) that an individual is likely to have so used such a substance recently—

"(i) ensure that the self-sufficiency plan developed under section 408(b) with respect to the individual addresses the use of the substance;

"(ii) suspend the provision of cash assistance under the program to the family of the individual until a subsequent such test indicates that the individual has not been using the substance; and

"(iii) require, as a condition of providing any benefit under the program to the family of the individual, that the individual comply with the self-sufficiency plan, including the provisions of the plan that address the use of the substance, and undergo additional such tests every 30 or 60 days, as the State deems appropriate; and

"(C) terminate for 3 years the participation in the program of the family of any individual who tests positive for such use of such a sub-

stance in such number of consecutive tests administered pursuant to this paragraph (which shall be not less than 3 and not more than 6) as the State deems appropriate.".

(b) PENALTY FOR NONCOMPLIANCE.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(15) PENALTY FOR FAILURE TO COMPLY WITH DRUG TESTING REQUIREMENTS.—If the Secretary determines that a State has not complied with section 408(a)(12) during a fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 5 percent and not more than 10 percent of the State family assistance grant, as the Secretary deems appropriate based on the frequency and severity of the noncompliance.".

Subtitle B—Child Care

SEC. 8201. ENTITLEMENT FUNDING.

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $2,717,000,000 for fiscal year 2006;

"(H) $2,767,000,000 for fiscal year 2007;

"(I) $2,817,000,000 for fiscal year 2008;

"(J) $2,867,000,000 for fiscal year 2009; and

"(K) $2,917,000,000 for fiscal year 2010.".

Subtitle C—Child Support

SEC. 8301. FEDERAL MATCHING FUNDS FOR LIMITED PASS THROUGH OF CHILD SUPPORT PAYMENTS TO FAMILIES RECEIVING TANF.

(a) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended—

(1) in paragraph (1)(A), by inserting "subject to paragraph (7)" before the semicolon; and

(2) by adding at the end the following:

"(7) FEDERAL MATCHING FUNDS FOR LIMITED PASS THROUGH OF CHILD SUPPORT PAYMENTS TO FAMILIES RECEIVING TANF.—Notwithstanding paragraph (1), a State shall not be required to pay to the Federal Government the Federal share of an amount collected during a month on behalf of a family that is a recipient of assistance under the State program funded under part A, to the extent that—

"(A) the State distributes the amount to the family;

"(B) the total of the amounts so distributed to the family during the month—

"(i) exceeds the amount (if any) that, as of December 31, 2001, was required under State law to be distributed to a family under paragraph (1)(B); and

"(ii) does not exceed the greater of—

"(I) $100; or

"(II) $50 plus the amount described in clause (i); and

"(C) the amount is disregarded in determining the amount and type of assistance provided to the family under the State program funded under part A.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to amounts distributed on or after October 1, 2008.

SEC. 8302. STATE OPTION TO PASS THROUGH ALL CHILD SUPPORT PAYMENTS TO FAMILIES THAT FORMERLY RECEIVED TANF.

(a) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)), as amended by section 8301(a) of this Act, is amended—

(1) in paragraph (2)(B), in the matter preceding clause (i), by inserting ", except as provided in paragraph (8)," after "shall"; and

(2) by adding at the end the following:

"(8) STATE OPTION TO PASS THROUGH ALL CHILD SUPPORT PAYMENTS TO FAMILIES THAT FORMERLY RECEIVED TANF.—In lieu of applying paragraph (2) to any family described in paragraph (2), a State may distribute to the family any amount collected during a month on behalf of the family.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to amounts distributed on or after October 1, 2008.

SEC. 8303. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR FAMILIES RECEIVING TANF.

(a) IN GENERAL.—Section 466(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—

(1) by striking "parent, or," and inserting "parent or"; and

(2) by striking "upon the request of the State agency under the State plan or of either parent,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 8304. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.

(a) IN GENERAL.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(3) by adding "and" after the semicolon; and

(4) by adding after and below the end the following new clause:

"(ii) in the case of an individual who has never received assistance under a State program funded under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, which shall be retained by the State from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and such fees shall be considered income to the program);".

(b) CONFORMING AMENDMENT.—Section 457(a)(3) (42 U.S.C. 657(a)(3)) is amended to read as follows:

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 8305. REPORT ON UNDISTRIBUTED CHILD SUPPORT PAYMENTS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the procedures that the States use generally to locate custodial parents for whom child support has been collected but not yet distributed. The report shall include an estimate of the total amount of undistributed child support and the average length of time it takes undistributed child support to be distributed. To the extent the Secretary deems appropriate, the Secretary shall include in the report recommendations as to whether additional procedures should be established at the State or Federal level to expedite the payment of undistributed child support.

SEC. 8306. DECREASE IN AMOUNT OF CHILD SUPPORT ARREARAGE TRIGGERING PASSPORT DENIAL.

(a) IN GENERAL.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking "$5,000" and inserting "$2,500".

(b) CONFORMING AMENDMENT.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "$5,000" and inserting "$2,500".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 8307. USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF CHILDREN WHO ARE NOT MINORS.

(a) IN GENERAL.—Section 464 (42 U.S.C. 664) is amended—

(1) in subsection (a)(2)(A), by striking "(as that term is defined for purposes of this paragraph under subsection (c))"; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "(1) Except as provided in paragraph (2), as used in" and inserting "In"; and

(ii) by inserting "(whether or not a minor)" after "a child" each place it appears; and

(B) by striking paragraphs (2) and (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 8308. GARNISHMENT OF COMPENSATION PAID TO VETERANS FOR SERVICE-CONNECTED DISABILITIES IN ORDER TO ENFORCE CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Section 459(h) (42 U.S.C. 659(h)) is amended—

(1) in paragraph (1)(A)(ii)(V), by striking all that follows "Armed Forces" and inserting a semicolon; and

(2) by adding at the end the following:

"(3) LIMITATIONS WITH RESPECT TO COMPENSATION PAID TO VETERANS FOR SERVICE-CONNECTED DISABILITIES.—Notwithstanding any other provision of this section:

"(A) Compensation described in paragraph (1)(A)(ii)(V) shall not be subject to withholding pursuant to this section—

"(i) for payment of alimony; or

"(ii) for payment of child support if the individual is fewer than 60 days in arrears in payment of the support.

"(B) Not more than 50 percent of any payment of compensation described in paragraph (1)(A)(ii)(V) may be withheld pursuant to this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 8309. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.

Section 452(j) (42 U.S.C. 652(j)) is amended by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater," before "which shall be available".

SEC. 8310. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(o) (42 U.S.C. 653(o)) is amended—

(1) in the 1st sentence, by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater," before "which shall be available"; and

(2) in the 2nd sentence, by striking "for each of fiscal years 1997 through 2001".

SEC. 8311. INFORMATION COMPARISONS WITH INSURANCE DATA.

(a) DUTIES OF THE SECRETARY.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(m) COMPARISONS WITH INSURANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary, through the Federal Parent Locator Service, may—

"(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments, and

"(B) furnish information resulting from such a comparison to the State agencies responsible for collecting child support from such individuals.

"(2) LIABILITY.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.".

(b) STATE REIMBURSEMENT OF FEDERAL COSTS.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by inserting "or section 452(m)" after "this section".

SEC. 8312. TRIBAL ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE.

Section 453(c)(1) (42 U.S.C. 653(c)(1)) is amended by inserting "or of any Indian tribe or tribal organization" after "any agent or attorney of any State".

SEC. 8313. REIMBURSEMENT OF SECRETARY'S COSTS OF INFORMATION COMPARISONS AND DISCLOSURE FOR ENFORCEMENT OF OBLIGATIONS ON HIGHER EDUCATION ACT LOANS AND GRANTS.

Section 453(j)(6)(F) (42 U.S.C. 653(j)(6)(F)) is amended by striking "additional".

SEC. 8314. TECHNICAL AMENDMENT RELATING TO COOPERATIVE AGREEMENTS BETWEEN STATES AND INDIAN TRIBES.

Section 454(33) (42 U.S.C. 654(33)) is amended by striking "that receives funding pursuant to section 428 and".

SEC. 8315. STATE OPTION TO USE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM FOR INTERSTATE CASES.

Section 466(a)(14)(A)(iii) (42 U.S.C. 666(a)(14)(A)(iii)) is amended by inserting "(but the assisting State may establish a corresponding case based on such other State's request for assistance)" before the semicolon.

SEC. 8316. MODIFICATION OF RULE REQUIRING ASSIGNMENT OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING TANF.

(a) IN GENERAL.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended to read as follows:

"(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to—

"(i) support from any other person which accrues during the period that the family receives assistance under the program; and

"(ii) at the option of the State, support from any other person which has accrued before such period.

"(B) LIMITATION.—The total amount of support that may be required to be provided

with respect to rights assigned to a State by a family member pursuant to subparagraph (A) shall not exceed the total amount of assistance provided by the State to the family.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008.

SEC. 8317. STATE OPTION TO DISCONTINUE CERTAIN SUPPORT ASSIGNMENTS.

Section 457(b) (42 U.S.C. 657(b)) is amended by striking "shall" and inserting "may".

SEC. 8318. TECHNICAL CORRECTION.

The second paragraph (7) of section 453(j) (42 U.S.C. 653(j)) is amended by striking "(7)" and inserting "(9)".

SEC. 8319. REDUCTION IN RATE OF REIMBURSEMENT OF CHILD SUPPORT ADMINISTRATIVE EXPENSES.

Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended—

(1) in subparagraph (B), by striking ", and" and inserting a semicolon;

(2) in subparagraph (C), by striking "fiscal year 1990 and each fiscal year thereafter." and inserting "fiscal years 1990 through 2006;"; and

(3) by adding at the end the following:

"(D) 62 percent for fiscal year 2007;

"(E) 58 percent for fiscal year 2008;

"(F) 54 percent for fiscal year 2009; and

"(G) 50 percent for fiscal year 2010 and each fiscal year thereafter.".

SEC. 8320. INCENTIVE PAYMENTS.

(a) IN GENERAL.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by inserting "from amounts paid to the State under section 458 or" before "to carry out an agreement".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2007.

Subtitle D—Child Welfare

SEC. 8401. EXTENSION OF AUTHORITY TO APPROVE DEMONSTRATION PROJECTS.

Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is amended by striking "2003" and inserting "2010".

SEC. 8402. ELIMINATION OF LIMITATION ON NUMBER OF WAIVERS.

Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is amended by striking "not more than 10".

SEC. 8403. ELIMINATION OF LIMITATION ON NUMBER OF STATES THAT MAY BE GRANTED WAIVERS TO CONDUCT DEMONSTRATION PROJECTS ON SAME TOPIC.

Section 1130 (42 U.S.C. 1320a–9) is amended by adding at the end the following:

"(h) NO LIMIT ON NUMBER OF STATES THAT MAY BE GRANTED WAIVERS TO CONDUCT SAME OR SIMILAR DEMONSTRATION PROJECTS.—The Secretary shall not refuse to grant a waiver to a State under this section on the grounds that a purpose of the waiver or of the demonstration project for which the waiver is necessary would be the same as or similar to a purpose of another waiver or project that is or may be conducted under this section.".

SEC. 8404. ELIMINATION OF LIMITATION ON NUMBER OF WAIVERS THAT MAY BE GRANTED TO A SINGLE STATE FOR DEMONSTRATION PROJECTS.

Section 1130 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(i) NO LIMIT ON NUMBER OF WAIVERS GRANTED TO, OR DEMONSTRATION PROJECTS THAT MAY BE CONDUCTED BY, A SINGLE STATE.—The Secretary shall not impose any limit on the number of waivers that may be granted to a State, or the number of demonstration projects that a State may be authorized to conduct, under this section.".

SEC. 8405. STREAMLINED PROCESS FOR CONSIDERATION OF AMENDMENTS TO AND EXTENSIONS OF DEMONSTRATION PROJECTS REQUIRING WAIVERS.

Section 1130 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(j) STREAMLINED PROCESS FOR CONSIDERATION OF AMENDMENTS AND EXTENSIONS.—The Secretary shall develop a streamlined process for consideration of amendments and extensions proposed by States to demonstration projects conducted under this section.".

SEC. 8406. AVAILABILITY OF REPORTS.

Section 1130 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(k) AVAILABILITY OF REPORTS.—The Secretary shall make available to any State or other interested party any report provided to the Secretary under subsection (f)(2), and any evaluation or report made by the Secretary with respect to a demonstration project conducted under this section, with a focus on information that may promote best practices and program improvements.".

SEC. 8407. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.

(a) FOSTER CARE MAINTENANCE PAYMENTS.—Section 472(a) (42 U.S.C. 672(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in sec-

tion 406(a) (as in effect on July 16, 1996) into foster care if—

"(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

"(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

"(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

"(A) the removal and foster care placement are in accordance with—

"(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

"(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

"(B) the child's placement and care are the responsibility of—

"(i) the State agency administering the State plan approved under section 471; or

"(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

"(C) the child has been placed in a foster family home or child-care institution.

"(3) AFDC ELIGIBILITY REQUIREMENT.—

"(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

"(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

"(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

"(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

"(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

"(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.".

(b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

"(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial de-

termination to the effect that continuation in the home would be contrary to the welfare of the child; and

"(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

"(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

"(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

"(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

"(i) meets the requirements of subparagraph (A)(ii);

"(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

"(iii) is available for adoption because—

"(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

"(II) the child's adoptive parents have died; and

"(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—

"(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

"(II) the prior adoption were treated as never having occurred.".

SEC. 8408. CLARIFICATION REGARDING FEDERAL MATCHING OF CERTAIN ADMINISTRATIVE COSTS UNDER THE FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

(a) ADMINISTRATIVE COSTS RELATING TO UNLICENSED CARE.—Section 472 (42 U.S.C. 672) is amended by inserting after subsection (h) the following:

"(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

"(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

"(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

"(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

"(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

"(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

"(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.".

(b) CONFORMING AMENDMENT.—Section 474(a)(3) of such Act (42 U.S.C. 674(a)(3)) is amended by inserting "subject to section 472(i)" before "an amount equal to".

SEC. 8409. TECHNICAL CORRECTION.

Section 1130(b)(1) (42 U.S.C. 1320a–9(b)(1)) is amended by striking "422(b)(9)" and inserting "422(b)(10)".

SEC. 8410. TECHNICAL CORRECTION.

Section 470 (42 U.S.C. 670) is amended by striking "June 1, 1995" and inserting "July 16, 1996".

Subtitle E—Supplemental Security Income

SEC. 8501. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;

"(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

"(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select

for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

SEC. 8502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(a)(10)(A)(i)) is amended by striking "12" and inserting "3".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

Subtitle F—State and Local Flexibility

SEC. 8601. PROGRAM COORDINATION DEMONSTRATION PROJECTS.

(a) PURPOSE.—The purpose of this section is to establish a program of demonstration projects in a State or portion of a State to coordinate multiple public assistance, workforce development, and other programs, for the purpose of supporting working individuals and families, helping families escape welfare dependency, promoting child well-being, or helping build stronger families, using innovative approaches to strengthen service systems and provide more coordinated and effective service delivery.

(b) DEFINITIONS.—In this section:

(1) ADMINISTERING SECRETARY.—The term "administering Secretary" means, with respect to a qualified program, the head of the Federal agency responsible for administering the program.

(2) QUALIFIED PROGRAM.—The term "qualified program" means—

(A) a program under part A of title IV of the Social Security Act; or

(B) the program under title XX of such Act.

(c) APPLICATION REQUIREMENTS.—The head of a State entity or of a sub-State entity administering 2 or more qualified programs proposed to be included in a demonstration project under this section shall (or, if the project is proposed to include qualified programs administered by 2 or more such entities, the heads of the administering entities (each of whom shall be considered an applicant for purposes of this section) shall jointly) submit to the administering Secretary of each such program an application that contains the following:

(1) PROGRAMS INCLUDED.—A statement identifying each qualified program to be included in the project, and describing how the purposes of each such program will be achieved by the project.

(2) POPULATION SERVED.—A statement identifying the population to be served by the project and specifying the eligibility criteria to be used.

(3) DESCRIPTION AND JUSTIFICATION.—A detailed description of the project, including—

(A) a description of how the project is expected to improve or enhance achievement of the purposes of the programs to be included in the project, from the standpoint of quality, of cost-effectiveness, or of both; and

(B) a description of the performance objectives for the project, including any proposed modifications to the performance measures and reporting requirements used in the programs.

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

(5) COST NEUTRALITY.—Such information and assurances as necessary to establish to the satisfaction of the administering Secretary, in consultation with the Director of the Office of Management and Budget, that the proposed project is reasonably expected to

meet the applicable cost neutrality requirements of subsection (d)(4).

(6) EVALUATION AND REPORTS.—An assurance that the applicant will conduct ongoing and final evaluations of the project, and make interim and final reports to the administering Secretary, at such times and in such manner as the administering Secretary may require.

(7) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the administering Secretary may require.

(d) APPROVAL OF APPLICATIONS.—

(1) IN GENERAL.—The administering Secretary with respect to a qualified program that is identified in an application submitted pursuant to subsection (c) may approve the application and, except as provided in paragraph (2), waive any requirement applicable to the program, to the extent consistent with this section and necessary and appropriate for the conduct of the demonstration project proposed in the application, if the administering Secretary determines that the project—

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

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

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

(2) PROVISIONS EXCLUDED FROM WAIVER AUTHORITY.—A waiver shall not be granted under paragraph (1) with respect to any provision of law relating to—

(A) civil rights or prohibition of discrimination;

(B) purposes or goals of any program;

(C) maintenance of effort requirements;

(D) health or safety;

(E) labor standards under the Fair Labor Standards Act of 1938; or

(F) environmental protection;

(3) AGREEMENT OF EACH ADMINISTERING SECRETARY REQUIRED.—

(A) IN GENERAL.—An applicant may not conduct a demonstration project under this section unless each administering Secretary with respect to any program proposed to be included

in the project has approved the application to conduct the project.

(B) AGREEMENT WITH RESPECT TO FUNDING AND IMPLEMENTATION.—Before approving an application to conduct a demonstration project under this section, an administering Secretary shall have in place an agreement with the applicant with respect to the payment of funds and responsibilities required of the administering Secretary with respect to the project.

(4) COST-NEUTRALITY REQUIREMENT.—

(A) GENERAL RULE.—Notwithstanding any other provision of law (except subparagraph (B)), the total of the amounts that may be paid by the Federal Government for a fiscal year with respect to the programs in the State in which an entity conducting a demonstration project under this section is located that are affected by the project shall not exceed the estimated total amount that the Federal Government would have paid for the fiscal year with respect to the programs if the project had not been conducted, as determined by the Director of the Office of Management and Budget.

(B) SPECIAL RULE.—If an applicant submits to the Director of the Office of Management and Budget a request to apply the rules of this subparagraph to the programs in the State in which the applicant is located that are affected by a demonstration project proposed in an application submitted by the applicant pursuant to this section, during such period of not more than 5 consecutive fiscal years in which the project is in effect, and the Director determines, on the basis of supporting information provided by the applicant, to grant the request, then, notwithstanding any other provision of law, the total of the amounts that may be paid by the Federal Government for the period with respect to the programs shall not exceed the estimated total amount that the Federal Government would have paid for the period with respect to the programs if the project had not been conducted.

(5) 90-DAY APPROVAL DEADLINE.—

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

(i) the administering Secretary is deemed to have approved the application for such period as is requested in the application, except to the extent inconsistent with subsection (e); and

(ii) any waiver requested in the application which applies to a qualified program that is identified in the application and is administered by the administering Secretary is deemed to be granted, except to the extent inconsistent with paragraph (2) or (4) of this subsection.

(B) DEADLINE EXTENDED IF ADDITIONAL INFORMATION IS SOUGHT.—The 90-day period referred to in subparagraph (A) shall not include any period that begins with the date the Secretary requests the applicant to provide additional information with respect to the application and ends with the date the additional information is provided.

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

(f) REPORTS TO CONGRESS.—

(1) REPORT ON DISPOSITION OF APPLICATIONS.—Within 90 days after an administering Secretary receives an application submitted pursuant to this section, the administering Secretary shall submit to each Committee of the Congress which has jurisdiction over a qualified program identified in the application notice of the receipt, a description of the decision of the administering Secretary with respect to the application, and the reasons for approving or disapproving the application.

(2) REPORTS ON PROJECTS.—Each administering Secretary shall provide annually to the Congress a report concerning demonstration projects approved under this section, including—

(A) the projects approved for each applicant;

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

(C) how well each project for which a waiver is granted is improving or enhancing program achievement from the standpoint of quality, cost-effectiveness, or both;

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

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

(F) to the extent the administering Secretary deems appropriate, recommendations for modification of programs based on outcomes of the projects.

Subtitle G—Repeal of Continued Dumping and Subsidy Offset

SEC. 8701. REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.

(a) REPEAL.—Section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c), and the item relating to section 754 in the table of contents for title VII of that Act, are repealed.

(b) EXISTING ACCOUNTS.—All amounts remaining, upon the enactment of this title, in any special account established under section 754(e)(1) of the Tariff Act of 1930 (as in effect on the day before the date of the enactment of this title) shall be deposited in the general fund of the Treasury.

Subtitle H—Effective Date

SEC. 8801. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall be effective as of October 1, 2005.

(b) EXCEPTION.—In the case of a State plan under title IV of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this title, the effective date of the amendments imposing the additional requirements shall be 3 months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

S. 1932

AMENDMENT