H. R. 2346

To improve the lives of working families by providing family and medical need assistance, child care assistance, in-school and after school assistance, family care assistance, and encouraging the establishment of family-friendly workplaces.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2011

Ms. WOOLSEY (for herself, Mr. STARK, Mrs. MALONEY, Ms. DELAURO, Mr. GEORGE MILLER of California, Ms. SCHAKOWSKY, Mr. DAVIS of Illinois, Ms. LEE of California, Mr. CONYERS, Ms. WATERS, Mr. OLVER, Ms. HIRONO, Mr. HASTINGS of Florida, Mr. BRADY of Pennsylvania, Mr. FILNER, Ms. MOORE, Mr. PAYNE, Mr. JACKSON of Illinois, Mr. RUSH, Mr. MCDERMOTT, Ms. CHU, Mr. ELLISON, Mr. HINCHERY, Mr. GRIJALVA, Ms. BROWN of Florida, Mr. HONDA, Ms. NORTON, Ms. FUDGE, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Oversight and Government Reform, House Administration, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the lives of working families by providing family and medical need assistance, child care assistance, in-school and after school assistance, family care assistance, and encouraging the establishment of family-friendly workplaces.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Balancing Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—PAID LEAVE FOR NEW PARENTS AND FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT

Subtitle A—Paid Leave for New Parents

Sec. 101. Short title.
Sec. 102. General definitions.

PART 1—FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

Sec. 111. Program definitions.
Sec. 112. Establishment of program.
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Sec. 114. Voluntary employer plan.
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Sec. 117. Enforcement.
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Sec. 120. Regulations.
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PART 2—CIVIL SERVICE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

Sec. 131. Program definitions.
Sec. 132. Establishment of program.

PART 3—FAMILY AND MEDICAL LEAVE INSURANCE FUND

Sec. 141. Establishment.
Sec. 142. Board of Trustees.
Sec. 143. Investment of the Family and Medical Leave Insurance Fund.
Sec. 144. Payments from Family and Medical Leave Insurance Fund.
Sec. 145. Administrative expenses.
Sec. 146. Amendments to the Internal Revenue Code of 1986.

Subtitle B—Family and Medical Leave Enhancement Act

Sec. 151. Short title.
Sec. 152. Eligible employee.
Sec. 153. Entitlement to additional leave under the FMLA for parental involvement and family wellness.
Sec. 154. Entitlement of Federal employees to leave for parental involvement and family wellness.

Subtitle C—Domestic Violence Leave Act

Sec. 161. Short title.
Sec. 162. Entitlement to leave for domestic violence, sexual assault, or stalking.
Sec. 163. Inclusion of same-sex spouses and domestic partners.
Sec. 164. Entitlement to leave for Federal employees for domestic violence, sexual assault, or stalking.
Sec. 165. Inclusion of same-sex spouses and domestic partners for leave for Federal employees.

Subtitle D—Healthy Families Act

Sec. 171. Short title.
Sec. 172. Purposes.
Sec. 173. Definitions.
Sec. 174. Provision of paid sick time.
Sec. 175. Posting requirement.
Sec. 176. Prohibited acts.
Sec. 177. Enforcement authority.
Sec. 178. Collection of data on paid sick time and further study.
Sec. 179. Effect on other laws.
Sec. 180. Effect on existing employment benefits.
Sec. 181. Encouragement of more generous leave policies.
Sec. 182. Regulations.
Sec. 183. Effective dates.

TITLE II—CHILD CARE EXPANSION AND IMPROVEMENT

Subtitle A—Care for Young Children

Sec. 201. Expanding child care for young children.

Subtitle B—Improving Child Care Quality Through Teacher Incentives

Sec. 211. Purpose.
Sec. 212. Definitions.
Sec. 213. Funds for child care provider development and retention grants, scholarships, and health benefits coverage.
Sec. 214. Allotments to States.
Sec. 215. Application and plan.
Sec. 216. Child Care Provider Development and Retention Grant Program.
Sec. 217. Child Care Provider Scholarship Program.
Sec. 218. Child care provider health benefits coverage.
Sec. 219. Annual report.
Sec. 220. Evaluation of health benefits programs by Secretary.
Sec. 221. Authorization of appropriations.

Subtitle C—Child Care Facilities Financing

Sec. 231. Short title.
Sec. 232. Technical and financial assistance grants.
Sec. 233. Definitions.
Sec. 234. Authorization of appropriations.

Subtitle D—Business Child Care Incentive Grant Program
Sec. 241. Business child care incentive grant program.

TITLE III—PRE-SCHOOL, IN-SCHOOL, AND AFTER SCHOOL ASSISTANCE

Subtitle A—Universal Prekindergarten Act

Sec. 301. Short title.
Sec. 302. Purpose.
Sec. 303. Prekindergarten grant program authorization.
Sec. 304. State requirements.
Sec. 305. Local requirements.
Sec. 306. Professional development set-aside.
Sec. 307. Reporting.
Sec. 308. Federal funds supplementary.
Sec. 309. Definitions.
Sec. 310. Authorization of appropriations.

Subtitle B—Universal Free School Breakfast Program

Sec. 311. Universal free school breakfast program.

Subtitle C—Afterschool Education Enhancement Act

Sec. 341. Short title.
Sec. 342. Amendments regarding 21st Century community learning centers.

TITLE IV—IMPROVING THE WORKPLACE FOR FAMILIES

Subtitle A—Part-Time and Temporary Workers Benefits

Sec. 401. Treatment of employees working at less than full-time under participation, vesting, and accrual rules governing pension plans.
Sec. 402. Treatment of employees working at less than full-time under group health plans.
Sec. 403. Expansion of definition of employee to include certain individuals whose services are leased or contracted for.
Sec. 404. Effective dates.

Subtitle B—United States Business Telework Act

Sec. 411. Short title.
Sec. 412. Telework pilot program.
Sec. 413. Report to Congress.
Sec. 414. Definition.
Sec. 415. Termination.
Sec. 416. Authorization of appropriations.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) Currently 58 percent of married families

4 with children in the United States, both parents
work full-time. Seventy-one percent of mothers with children under age 18 work full-time.

(2) The National Study of the Changing Workforce found that 75 percent of employed parents indicated that they don’t have enough time with their children.

(3)(A) A survey conducted by the Boys and Girls Clubs of America found that more than half of the respondents indicated that they had little or no time to spend in physical activities with their children.

(B) Parents in 3,500,000 households, representing 7,000,000 children, spend an hour or less a week doing physical activities with their children.

(C) The primary obstacle cited by the parents to engaging in physical activities with their children was their work schedules.

(4) According to the National Partnership for Women and Families, 78 percent of workers who need leave do not take it because they cannot afford it.

(5) Nearly every industrialized nation other than the United States, and most developing nations, provides parents with paid leave for infant care.
In the United States, more than half of all mothers of children under the age of one work. Yet parents of infants and toddlers face acute problems finding child care, and child care that is available is often of mediocre quality.

Since 2000, the cost of child care has increased twice as fast as the median income of families with children. According to the National Association of Child Care Resource & Referral Agencies, the average annual cost of child care ranges from $4,560 in Mississippi to $18,773 in Massachusetts. In addition, the annual cost of child care for a 4-year old is more than the annual in State tuition at a public four-year college in 36 States and the District of Columbia.

The average annual child care teacher salary is $20,940, a wage so low that many programs find it extremely challenging to recruit fully qualified teachers and to retain them. High turnover rates make it more difficult to provide quality and continuity of care.

Only 17 percent of eligible families received child care assistance through the Child Care Development Block Grant, the Social Services Block Grant, and the Temporary Assistance for Needy
Families program in 2006. In addition, approximately 40 percent of eligible preschoolers are able to participate in the Head Start program.

(10) Among needy students, school nutrition programs often provide the primary opportunity for consumption of nutritionally valuable foods.

(11) Breakfast is a critical meal for children and provides the nutrition necessary to optimize their learning capacities.

(12) According to a recent nationwide report by the Afterschool Alliance, approximately 15,000,000 children in the United States are left alone after school each week without adult supervision.

(13) Violent juvenile crime peaks between the hours of 3:00 p.m. and 7:00 p.m. and teens are more likely to be victims of serious violent crime in the hour after school lets out than any other time of the day.

(14) The Nation’s communities can benefit from teleworking, which give workers more time to spend at home with their families.

(15) Companies with telework programs have found that telework can boost employee productivity 5 percent to 20 percent, thereby saving businesses valuable resources and time.
TITLE I—PAID LEAVE FOR NEW PARENTS AND FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT

Subtitle A—Paid Leave for New Parents

SEC. 101. SHORT TITLE.

This subtitle may be cited as the “Family Leave Insurance Act”.

SEC. 102. GENERAL DEFINITIONS.

(a) In General.—The definitions provided by section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611), other than the definitions of the terms “son or daughter”, shall apply for purposes of this subtitle.

(b) Additional Definitions.—In this subtitle, the following additional definitions shall apply:

(1) Board of Trustees.—The term “Board of Trustees” means the Board of Trustees of the Insurance Fund.

(2) Covered Agency.—The term “covered agency”, when used with respect to a State, means the State agency referred to in paragraph (1) of section 112(b), or the Commissioner of Social Security if the Commissioner is carrying out the State Family
and Medical Insurance Program in the State under
paragraph (2) of such section.

(3) DOMESTIC PARTNER.—The term "domestic
partner" means—

(A) the person recognized as the domestic
partner of the employee under any domestic
partner registry or civil union laws of the State
or political subdivision of a State where the em-
ployee resides;

(B) a same-sex spouse as determined
under the applicable law of the State or polit-
ical subdivision of a State where the employee
resides; or

(C) in the case of an unmarried employee
who lives in a State where a person cannot
marry a person of the same sex under the laws
of the State, a single, unmarried adult person
of the same sex as the employee who is in a
committed, intimate relationship with the em-
ployee, is not a domestic partner to any other
person, and who is designated to the employer
by such employee as that employee’s domestic
partner.
(4) **Insurance Fund.**—The term “Insurance Fund” means the Family and Medical Leave Insurance Fund established under section 141.

(5) **Managing Trustee.**—The term “Managing Trustee” means the Managing Trustee of the Board of Trustees of the Insurance Fund.

(6) **Son or Daughter.**—The term “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, a child of a person’s domestic partner, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

**PART 1—FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM**

**SEC. 111. PROGRAM DEFINITIONS.**

In this part:

(1) **Eligible Employee.**—The term “eligible employee” means any of the following:

(A) An employee who—

(i) earned wages with a covered employer for a minimum of 6 months prior to
filing an application for leave benefits under this part; and

(ii) has been employed by the employer with respect to whom paid leave is requested for at least 625 hours of service during the previous 6 months.

(B) An employee—

(i) of a small employer that has elected to participate in the Program under this part in accordance with such regulations as the Secretary shall prescribe; and

(ii) who meets the requirements of subparagraph (A), but is not an employee of the Federal Government.

(C) A self-employed individual who has—

(i) elected to participate in the Program under this part in accordance with such regulations as the Secretary shall prescribe;

(ii) self-employment income while a covered employer for 6 of the last 12 months prior to filing an application for leave benefits under this part; and

(iii) paid premiums under section 1401(c) of the Internal Revenue Code of
1986 with respect to such self-employment income.

(2) EMPLOYER-RELATED DEFINITIONS.—

(A) COVERED EMPLOYER.—The term “covered employer” means a person—

(i) that is—

(I) an employer;

(II) a small employer that has elected to participate in the Program under this part in accordance with such regulations as the Secretary shall prescribe; or

(III) a self-employed individual who has elected to so participate; and

(ii) that is not a voluntary plan employer.

(B) EMPLOYER.—The term “employer” shall have the meaning given that term in section 101(4) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(4)), except that such term shall include any person who employs 2 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.
(C) SMALL EMPLOYER.—The term “small employer”—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs not less than 2 and not more than 19 employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; and

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer described in clause (i) to any of the employees of such employer;

(II) any successor in interest of an employer described in clause (i); and

(III) any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)) that is an employer described in clause (i) but is not an entity of the Federal Government.

(D) VOLUNTARY PLAN EMPLOYER.—The term “voluntary plan employer” means an em-
ployer for which the Secretary has approved a voluntary plan under section 114 for the period involved.

(3) LEAVE BENEFIT.—The term “leave benefit” means a family and medical leave insurance benefit described in section 113.

(4) VOLUNTARY PAID BENEFIT.—The term “voluntary paid benefit” means a family and medical leave insurance benefit provided under a voluntary plan approved under section 114 for the period involved.

SEC. 112. ESTABLISHMENT OF PROGRAM.

(a) FEDERAL PROGRAM.—The Secretary of Labor shall establish a Family and Medical Insurance Program.

(b) STATE PROGRAMS.—In carrying out the Federal Program established under subsection (a), the Secretary may—

(1) enter into a contract with a State under which—

(A) the State agrees to establish, or expand a State program in effect at the date of the enactment of this Act to include, a State Family and Medical Insurance Program that provides the benefits described in this part; and
(B) the Secretary agrees to instruct the
Managing Trustee of the Family and Medical
Leave Insurance Fund, established under sec-
tion 141, to provide the State funds for such
benefits from the Insurance Fund; or
(2) at the request of the Governor of a State,
enter into an interagency agreement with the Com-
missioner of Social Security under which—
(A) the Commissioner of Social Security
agrees to establish a State Family and Medical
Insurance Program in such State to provide the
benefits described in this part in such State;
and
(B) the Secretary agrees to instruct the
Managing Trustee of the Insurance Fund to
provide the Commissioner of Social Security
funds for such benefits from the Insurance
Fund.
(c) State Application.—To be eligible to receive
a contract under subsection (b)(1), a State shall submit
an application to the Secretary at such time, in such man-
ner, and containing such information as the Secretary may
require. At a minimum, the application shall include infor-
mation identifying the State agency to carry out the State
Family and Medical Insurance Program under subsection (b)(1).

SEC. 113. PROGRAM BENEFITS.

(a) Entitlement.—Subject to subsections (b), (d), and (e), an eligible employee of a covered employer shall be entitled to a family and medical leave insurance benefit for a total of 12 workweeks of leave during any 12-month period for 1 or more of the following reasons:

(1) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(2) Because of the placement of a son or daughter with the employee for adoption or foster care.

(3) In order to care for a child, parent, spouse, domestic partner, grandchild, grandparent, or sibling of the employee and who has a serious health condition.

(4) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(5) Because of any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active
duty (or has been notified of an impending call or order to active duty) in the Armed Forces of the United States in support of a contingency operation.

(6) In order to care for a child, parent, spouse, domestic partner, grandchild, grandparent, sibling, or next of kin of the employee who is a covered servicemember as such term is defined in section 101(16) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(16)).

(b) Waiting Period.—During each 12-month period described in subsection (a), each eligible employee shall be subject to a waiting period of 5 workdays of leave described in subsection (a) (but not more than 7 calendar days), during which a leave benefit shall not be paid to the employee. The waiting period shall not reduce the 12 workweeks of leave benefits available under subsection (a).

(c) Benefit Amount.—

(1) In general.—Subject to paragraph (2), an eligible employee’s leave benefit for any workday on which the employee takes leave as described in subsection (a) shall be calculated as—

(A) in the case of an employee with an annual income of not more than $20,000, an amount equal to 100 percent of that employee’s daily earnings;
(B) in the case of an employee with an annual income of more than $20,000 and not more than $30,000, an amount equal to the greater of—

(i) 75 percent of that employee’s daily earnings; or

(ii) 100 percent of the daily earnings of an employee with an annual income of $20,000;

(C) in the case of an employee with an annual income of more than $30,000 and not more than $60,000, an amount equal to the greater of—

(i) 55 percent of that employee’s daily earnings; or

(ii) 75 percent of the daily earnings of an employee with an annual income of $30,000;

(D) in the case of an employee with an annual income of more than $60,000 and not more than $97,000, an amount equal to the greater of—

(i) 40 percent of that employee’s daily earnings; or
(ii) 55 percent of the daily earnings of an employee with an annual income of $60,000; and

(E) in the case of an employee with an annual income of more than $97,000, an amount equal to 40 percent of the daily earnings of an employee with an annual income of $97,000.

(2) Indexing of Annual Income Categories.—

(A) In General.—The Secretary shall index the annual income amounts specified in paragraph (1) for each calendar year, using the national average wage index, as determined under section 209(k) of the Social Security Act (42 U.S.C. 409(k)).

(B) Publication.—Not later than the November 1 preceding each calendar year, the Secretary shall publish in the Federal Register the indexed amount determined under subparagraph (A) for that calendar year.

(d) Application.—

(1) In General.—To be eligible to receive a family and medical insurance benefit under this part in a State, an eligible employee shall submit an application to the covered agency for the State at such
time, in such manner, and containing the information specified in paragraph (3) and such additional information as the agency may require.

(2) Irrevocability for self-employed individuals.—An election by a self-employed individual to participate in the Program shall be irrevocable.

(3) Certification requirements.—The covered agency shall require each of the following, as part of the application for benefits under this section in connection with any leave:

(A) A certification, submitted in a timely manner, issued by the health care provider of the eligible employee or of the child, spouse, parent, domestic partner, grandchild, grandparent or sibling of the employee, as appropriate, and similar to the certification described section 103(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(b)) in connection with such leave.

(B) In any case in which the covered agency has reason to doubt the validity of the certification provided under subparagraph (A), the Secretary may require, at the expense of the covered agency, that the eligible employee ob-
tain the opinion of a second health care provider designated or approved by the agency concerning any information certified under subparagraph (A).

(C) In any case in which the second opinion described in subparagraph (B) differs from the opinion in the original certification provided under subparagraph (A), the covered agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee concerning the information certified under subparagraph (A). The opinion of the third health care provider concerning such information shall be considered to be final and shall be binding on the agency and the employee.

(e) Payment of Benefits.—

(1) Payment from Insurance Fund.—Payments of benefits required to be made under this section shall be made only from the Insurance Fund established under section 141.

(2) Certification and Payment.—On the final decision of a covered agency or on the final judgment of any court of competent jurisdiction pur-
suant to paragraph (3) that any person is entitled
to any payment under this section—

(A) the covered agency shall certify to the
Managing Trustee of the Board of Trustees of
the Insurance Fund the name and address of
the person entitled to receive such payment, the
amount of such payment, and the time at which
such payment shall be made;

(B) the Managing Trustee shall pay the
certified amount from the Insurance Fund to
the covered agency; and

(C) the covered agency shall make the pay-
ment to the person.

(3) REVIEW.—Any eligible employee dissatisfied
with any initial determination under this section
shall be entitled to reconsideration of the determina-
tion, and a hearing on the determination, by the
Secretary to the same extent as is provided in sec-
tion 205(b) of the Social Security Act (42 U.S.C. 22
405(b)) and to judicial review of the final decision
after such hearing as is provided in section 205(g)
of the Social Security Act (42 U.S.C. 405(g)).

(4) WITHHOLDING OF CERTIFICATION.—In any
case in which a review of the covered agency’s deci-
sion is or may be sought under paragraph (3), the
covered agency may withhold certification of payment pending such review.

(5) **Other Compensation.**—Except as provided in section 115, no employee shall be eligible to receive paid leave benefits under this part for any period during which—

(A) the employee is receiving worker’s compensation or compensation through unemployment insurance in connection with the event for which the employee is taking the leave; or 

(B) the employee is receiving paid leave benefits from an employer under a voluntary employer plan approved under section 114.

(f) **Regulations.**—The Secretary shall issue regulations to carry out this section, including the determination of benefits for leave taken intermittently or on a reduced leave schedule, or for leave taken by a part-time, seasonal, or intermittent employee.

**Sec. 114. Voluntary Employer Plan.**

(a) **In General.**—Any employer may submit an application to the Secretary for approval of a voluntary plan. The Secretary may require the employer to resubmit the plan for approval on a annual basis. During a period for which the Secretary has approved a plan, the applicant
shall provide a voluntary paid benefit under the plan rather than participating in the Program.

(b) APPROVAL.—The Secretary shall approve the voluntary plan of the applicant if the Secretary finds each of the following with respect to the applicant:

1. The rights afforded to the employees covered under the plan are equal to or greater than the rights afforded through the Program.

2. The plan has been made available to all of the employees of the applicant employed in the United States or to all employees at any 1 distinct, separate establishment maintained by the applicant in the United States.

3. A majority of the employees of the employer employed in the United States or a majority of the employees employed at any one distinct, separate establishment maintained by the employer in the United States have consented to the plan.

4. The plan provides for insurance to be issued by an admitted disability insurer approved by the Secretary or equivalent insurance (which may be self-insurance).

5. The applicant has consented to the plan and has agreed to make the premium contributions re-
quired, if any, and transmit the proceeds to the dis-
ability insurer, if any.

(6) The plan provides for the inclusion of future
employees.

(7)(A) The plan will be in effect for a period of
not less than 1 year and, thereafter, continuously
unless the Secretary finds that the applicant has
given notice of intent to terminate the plan, as de-
scribed in subparagraph (B), and that the fee de-
scribed in subparagraph (C) has been paid.

(B) The notice shall be filed in writing with the
Secretary and shall be effective—

(i) on the anniversary of the effective date
of the plan next following the date of the filing
of the notice; or

(ii) if such anniversary would occur less
than 30 days after the date of the filing of the
notice, on the next anniversary of that effective
date.

(C) The applicant shall pay a fee to the Sec-
retary in such amount as the Secretary determines
to be adequate to provide leave benefits under this
part to all eligible employees of the applicant for a
period of at least 4 months, plus an amount to pay
administrative costs related to processing and paying such benefits.

(D) Amounts received by the Secretary under this paragraph shall be deposited in the Insurance Fund.

(8) The amount of deductions from the wages of an employee that is in effect for the plan shall not be increased on any date other than on the date of an anniversary of the effective date of the plan.

(c) ORDERS AND WITHDRAWAL OF APPROVAL.—If the Secretary finds that a voluntary plan employer is not paying voluntary paid benefits required under the voluntary plan to the employees under the plan, the Secretary may order the employer to make the payments. If the Secretary finds that a voluntary plan employer is not complying with the provisions of the plan, including by not paying voluntary paid benefits required under the plan, the Secretary may revoke the Secretary’s approval for the plan, and require the employer to participate in the Program.

SEC. 115. ADDITIONAL BENEFITS.

(a) ADDITIONAL EMPLOYER BENEFITS.—

(1) COVERED EMPLOYERS.—Nothing in this part shall be construed to discourage a covered employer from providing an additional benefit in con-
juncture with leave described in section 113(a) to an eligible employee, in addition to the leave benefit provided to that employee. The additional employer benefit shall not reduce the amount of the leave benefit that an eligible employee receives under this part.

(2) Voluntary Plan Employers.—Nothing in this part shall be construed to discourage a voluntary plan employer from providing an additional benefit in conjunction with leave described in section 113(a) to an employee, in addition to the voluntary paid benefit provided to that employee. The additional employer benefit shall not reduce the amount of the voluntary paid benefit that an employee receives under a voluntary plan described in section 114.

(b) Collective Bargaining.—

(1) More Protective.—Nothing in this part shall be construed to diminish the obligation of a covered employer or voluntary plan employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater paid leave rights to employees than the rights established under this part (including rights established under a plan described in section 114).
(2) LESS PROTECTIVE.—The rights established for employees under this part (including rights established under a plan described in section 114) shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 116. PROHIBITED ACTS BY EMPLOYER.

(a) INTERFERENCE WITH RIGHTS.—It shall be unlawful for any covered employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this part.

(b) DISCRIMINATION.—It shall be unlawful for any covered employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this part.

(e) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this part;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this part; or
(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this part.

SEC. 117. ENFORCEMENT.

(a) Civil Action by Employees.—

(1) Liability.—Any covered employer who violates section 116 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 8 weeks of wages or salary for the employee;
(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if a covered employer who has violated section 116 proves to the satisfaction of the court that the act or omission which violated section 116 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 116, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action to recover the damages or equitable relief prescribed in para-
graph (1) may be maintained against any covered employer (including a public agency) in any Federal or State court of competent jurisdiction by any 1 or more employees for and on behalf of—

(i) the employees; or

(ii) the employees and other employees similarly situated.

(B) LIMITATION.—The right provided by subparagraph (A) to bring an action by or on behalf of any employee shall terminate—

(i) on the filing of a complaint by the Secretary in an action under subsection (b)(3) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (1) or (2) of subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1),
unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(3) Fees and Costs.—The court in an action brought under this subsection shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorneys’ fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(b) Actions by the Secretary.—

(1) Administrative action.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 116 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) Civil action.—

(A) Right of action.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(B) Sums recovered.—Any sums recovered by the Secretary pursuant to this paragraph shall be held in a special deposit account
and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) Action for injunction by the Secretary.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of section 116, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(4) Solicitor of Labor.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(c) Limitation.—

(1) Except as provided in paragraph (2), an action may be brought under subsections (a) or (b) not later than 2 years after the date of the last event
constituting the alleged violation for which the ac-
tion is brought.

(2) WILLFUL VIOLATION.—In the case of such
action brought for a willful violation of section 116,
such action may be brought within 3 years of the
date of the last event constituting the alleged viola-
tion for which such action is brought.

(3) COMMENCEMENT.—In determining when an
action is commenced by the Secretary for the pur-
poses of this subsection, it shall be considered to be
commenced on the date when the complaint is filed.

(d) INVESTIGATIVE AUTHORITY.—

(1) IN GENERAL.—To ensure compliance with
the provisions of this part, or any regulation or
order issued under this part, the Secretary shall
have, subject to paragraph (3), the investigative au-
thority provided under section 11(a) of the Fair
Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(2) OBLIGATION TO KEEP AND PRESERVE
RECORDS.—Any covered employer shall make, keep,
and preserve records pertaining to compliance with
this part in accordance with section 11(c) of the
211(c)) and in accordance with regulations issued by
the Secretary. The Secretary shall have access to the
records for purposes of conducting audits.

(3) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall
not under the authority of this subsection require
any covered employer or any plan, fund, or program
to submit to the Secretary any books or records
more than once during any 12-month period, unless
the Secretary has reasonable cause to believe there
may exist a violation of this part or any regulation
or order issued pursuant to this part, or is investigat-
ing a charge pursuant to subsection (b).

(4) SUBPOENA POWER.—For the purposes of
any investigation provided for in this section, the
Secretary shall have the subpoena authority provided
for under section 9 of the Fair Labor Standards Act

SEC. 118. PENALTIES.

(a) PENALTIES FOR SUBMISSION OF FALSE CERTIFI-
cATIONS.—If the Secretary finds that any individual sub-
mits a false certification of the health condition of any
person in order to obtain leave benefits under this part
with the intent to defraud, the Secretary shall assess a
penalty against the individual in an amount up to 100 per-
cent of the benefits paid as a result of the false certifi-
cation. Penalties collected under this subsection shall be
deposited in the Insurance Fund, notwithstanding the pro-
visions of title 31, United States Code and used to reim-
burse the covered employers involved for the amount of
the leave benefits.

(b) Criminal Penalties for False Statements
and Solicitations.—Whoever—

(1) makes or causes to be made any false state-
ment in support of an application for leave benefits
under this part;

(2) knowingly presents or causes to be pre-
sented any false written or oral material statement
in support of any claim for leave benefits under this
part;

(3) knowingly solicits, receives, offers, pays, or
accepts any rebate, refund, commission, preference,
patronage, dividend, discount, or other consider-
ation, whether in the form of money or otherwise, as
compensation or inducement for soliciting a claimant
to apply for leave benefits under this part, except to
the extent authorized by a law of the United States;
or

(4) knowingly assists, abets, solicits, or con-
spires with any person to engage in an act that is
prohibited under paragraph (1), (2), or (3),
shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

SEC. 119. EDUCATION PROGRAMS.

(a) AUTHORITY.—The Secretary shall develop and maintain a program of education concerning the rights and leave benefits under this part.

(b) NOTICE TO EMPLOYERS.—The Secretary shall provide to each covered employer a notice informing employees of the rights and leave benefits available under this part. The notice shall be given by every covered employer to each employee hired, and to each employee taking leave as described in section 113(a).

SEC. 120. REGULATIONS.

The Secretary shall issue regulations to carry out this part.

SEC. 121. EFFECTIVE DATE.

This part shall take effect on January 1, 2012, and apply to periods of leave that commence on or after January 1, 2013.

PART 2—CIVIL SERVICE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

SEC. 131. PROGRAM DEFINITIONS.

In this part:
(1) AGENCY.—The term “agency” means an agency covered under subchapter V of chapter 63 of title 5, United States Code.

(2) AGENCY EMPLOYEE.—The term “agency employee” means an employee who—

(A) meets the requirements of paragraph (1) of section 6381 of title 5, United States Code; and

(B) has earned wages with an agency for 12 of the last 18 months, prior to filing an application for leave benefits under this part.

SEC. 132. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall establish a Civil Service Family and Medical Leave Insurance Program, and shall issue regulations providing for the implementation of the program. In issuing the regulations, the Director shall require that the Director shall provide, or that the agencies shall provide, family and medical leave insurance benefits described in section 113 to agency employees. The regulations issued under this subsection shall include provisions that are the same as regulations issued by the Secretary to implement the statutory provisions of sections 113, 115, 119, and 120, except insofar as the Director may determine, for good cause shown and stated together with
the regulations, that a modification of the regulations
would be more effective for the implementation of the
rights and protections under those sections. The regula-
tions shall provide for appropriate remedies and proce-
dures for violations of this part.

(b) PAYMENT.—At the direction of the Director or
the head of an agency, as specified in the regulations, the
Managing Trustee shall pay funds from the Insurance
Fund for the leave benefits.

PART 3—FAMILY AND MEDICAL LEAVE

INSURANCE FUND

SEC. 141. ESTABLISHMENT.

(a) IN GENERAL.—There is created in the Treasury
of the United States a trust fund to be known as the Fam-
ily and Medical Leave Insurance Fund. The Insurance
Fund shall consist of such amounts as may be deposited
in, or appropriated to, such fund as provided in this sec-
tion.

(b) APPROPRIATIONS TO INSURANCE FUND.—

(1) AMOUNTS APPROPRIATED.—There is appro-
priated to the Insurance Fund for fiscal year 2012
and each fiscal year thereafter, out of any moneys
in the Treasury not otherwise appropriated, amounts
equivalent to 100 percent of—
(A) the family and medical leave premiums imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or the Secretary’s delegate under subtitle F of such Code after December 31, 2010, as determined by the Secretary of the Treasury by applying the applicable rates of premium payment under such sections to such wages, which wages shall be certified by the Commissioner of Social Security;

(B) on the basis of the records of wages established and maintained by the Commissioner of the Social Security Administration in accordance with such reports;

(C) the family and medical leave premiums imposed by section 1401(c) of such Code with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or the Secretary’s delegate on tax returns under subtitle F of such Code after December 31, 2009, as determined by the Secretary of the Treasury by applying the applicable rate of premium payment under
such section 1401(c) to such self-employment income, which self-employment income shall be certified by the Commissioner of Social Security; and

(D) on the basis of the records of self-employment income established and maintained by the Commissioner of Social Security in accordance with such returns.

(2) TRANSFERS.—Such appropriated amounts shall be transferred from time to time from the general fund of the Treasury to the Insurance Fund. Such amounts shall be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in paragraph (1), paid to or deposited into the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than such premiums.

(3) INVESTMENTS.—All amounts transferred to the Insurance Fund under paragraph (2) shall be invested by the Managing Trustee referred to in section 312(c) in the same manner and to the same extent as the other assets of the Insurance Fund.
SEC. 142. BOARD OF TRUSTEES.

(a) Establishment and Membership.—With respect to the Insurance Fund, there is established a body to be known as the Board of Trustees of the Insurance Fund which shall be composed of the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, and the Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President, by and with the advice and consent of the Senate.

(b) Terms and Vacancies.—Members of the Board of Trustees shall serve for a period of 4 years. A member of the Board of Trustees nominated and confirmed as a member of the public to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member’s term until the earlier of the date on which the member’s successor takes office or the date on which a report of the Board is first issued under paragraph (2) after the expiration of the member’s term.

(c) Managing Trustee and Secretary.—The Secretary of the Treasury shall be the Managing Trustee
of the Board of Trustees. The Secretary of Labor shall
serve as the Secretary of the Board of Trustees.

(d) **Basic Duties of the Board of Trustees.**—
The Board of Trustees shall meet not less frequently than
once each calendar year. It shall be the duty of the Board
of Trustees to—

(1) hold the Insurance Fund;

(2) report to Congress not later than April 1 of
each year—

(A) on the operation and status of the In-
surance Fund during the fiscal year preceding
the fiscal year in which the report is made; and

(B) on the expected operation and status
of the Insurance Fund during the fiscal year in
which the report is made and the next 2 fiscal
years;

(3) report immediately to Congress whenever
the Board is of the opinion that the amount in the
Insurance Fund is unduly small; and

(4) review the general policies followed in man-
aging the Insurance Fund, and recommend changes
in such policies, including necessary changes in the
provisions of law that govern the way in which the
Insurance Fund is to be managed.
(e) Requirements Relating to Annual Report.—The report provided for in subsection (d)(2) shall include a statement of the assets of, and the disbursements made from, the Insurance Fund during the fiscal year preceding the fiscal year in which the report is made, an estimate of the expected income to, and disbursements to be made from, the Insurance Fund during the fiscal year in which the report is made and each of the next two fiscal years, and a statement of the actuarial status of the Insurance Fund. Such report shall also include an actuarial opinion by an appropriate employee of the Department of Labor certifying that the techniques and methodologies used for the report are generally accepted within the actuarial profession and that the assumptions and cost estimates used for the report are reasonable.

(f) Liability.—A person serving as a member of the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Insurance Fund.

SEC. 143. INVESTMENT OF THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.

(a) Obligations.—It shall be the duty of the Managing Trustee to invest such portion of the Insurance Fund as is not, in the trustee’s judgment, required to meet current withdrawals. Such investments may be made only
in interest-bearing obligations of the United States or in
obligations guaranteed as to both principal and interest
by the United States.

(b) ACQUISITION.—The obligations referred to in
subsection (a) may be acquired—

(1) on original issue at the issue price; or

(2) by purchase of outstanding obligations at
the market price.

(c) OBLIGATIONS ISSUED FOR PURCHASE BY
FUND.—The purposes for which obligations of the United
States may be issued under chapter 31 of title 31, United
States Code, are extended to authorize the issuance at par
of public debt obligations for purchase by the Insurance
Fund. Such obligations issued for purchase by the Insur-
ance Fund shall have dates of maturity fixed with due re-
gard for the needs of the Insurance Fund. Such obliga-
tions shall bear interest at a rate equal to—

(1) except as provided in paragraph (2), the av-
average market yield (computed by the Managing
Trustee on the basis of market quotations as of the
end of the calendar month preceding the date of
such issue) on all marketable interest-bearing obliga-
tions of the United States forming a part of the
public debt that are not due or callable until after
the expiration of four years from the end of such calendar month; or

(2) in a case in which such average market yield is not a multiple of 0.1 percent, the multiple of 0.1 percent nearest such market yield.

(d) OTHER OBLIGATIONS.—The Managing Trustee may purchase interest-bearing obligations of the United States that are not described in subsection (c) or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only in cases in which the trustee determines that the purchase of obligations described in this paragraph is in the public interest.

(e) DISPOSITION AND REDEMPTION OF OBLIGATIONS.—Any obligations acquired by the Insurance Fund (except public debt obligations issued exclusively to the Insurance Fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

(f) CREDITING OF INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Insurance Fund shall be credited to and form a part of the Insurance Fund.
SEC. 144. PAYMENTS FROM FAMILY AND MEDICAL LEAVE INSURANCE FUND.

The Managing Trustee shall pay from time to time from the Insurance Fund such amounts as the Secretary of Labor certifies are necessary to make the payments provided for by section 113, and payments with respect to administrative expenses under section 145.

SEC. 145. ADMINISTRATIVE EXPENSES.

(a) Availability of Insurance Fund.—Under regulations that shall be prescribed by the Secretary of Labor, funds shall be made available from the Insurance Fund in connection with the administration of this subtitle and the administration of related provisions of the Internal Revenue Code of 1986 in the same manner and extent as funds are made available from the trust funds referred to in section 201(g) of the Social Security Act (42 U.S.C. 401(g)) in connection with the administration of the relevant provisions referred to in such section.

(b) Authorization of Appropriations.—There are authorized to be made available for expenditure such amounts as Congress may determine to be appropriate to pay the costs of the part of the administration of this subtitle (including start-up costs, technical assistance, and costs for small employers electing to participate in the Family and Medical Leave Insurance Program) for which the Secretary of Labor is responsible.
(c) GIFTS AND BEQUESTS.—The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Insurance Fund for the benefit of the Insurance Fund or any activity financed through the Insurance Fund and such gifts and bequests shall be deposited into the Insurance Fund.

(d) PROCESSING OF TAX DATA.—Section 232 of the Social Security Act (42 U.S.C. 432) shall apply with respect to this subtitle, in the same manner and to the same extent as such section applies with respect to title II of the Social Security Act (42 U.S.C. 401 et seq.).

SEC. 146. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) EMPLOYEE PREMIUMS.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (c) the following new subsection:

“(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

“(1) IN GENERAL.—In addition to the taxes imposed by subsections (a) and (b), there is imposed on the income of every individual a family and medical leave premium equal to the applicable percent-
age of the wages (as defined in section 3121(a)) re-
ceived by the individual with respect to employment
(as defined in section 3121(b)).

“(2) APPLICABLE PERCENTAGE.—For purposes
of paragraph (1), the applicable percentage is—

“(A) 0.1 percent with respect to periods of
employment by a small employer (as defined in
section 103(b) of the Family Leave Insurance
Act) electing to participate in the Family and
Medical Leave Insurance Program (established
under section 112 of such Act); and

“(B) 0.2 percent with respect to all other
periods of employment.

“(3) EXCEPTION FOR CERTAIN EMPLOY-
MENT.—Paragraph (1) shall not apply with respect
to a period of employment—

“(A) by an employer during which the Sec-
retary of Labor determines the employer has in
effect a plan which is equivalent to or better
than the Family and Medical Leave Insurance
Program (established under section 112 of the
Family Leave Insurance Act); or

“(B) by a small employer (as so defined)
who has not elected to participate in such Pro-
gram.
For purposes of the preceding sentence, the Secretary of Labor shall prescribe such regulations as may be appropriate or necessary, including regulations requiring documentation of employer programs.”.

(b) EMPLOYER PREMIUMS.—Section 3111 of the Internal Revenue Code of 1986 (relating to tax on employers) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (c) the following new subsection:

“(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

“(1) IN GENERAL.—In addition to the excise taxes imposed by subsections (a) and (b), there is imposed on every employer a family and medical leave premium, with respect to having individuals in such employer’s employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by such employer with respect to employment (as defined in section 3121(b)).

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 0.1 percent with respect to small employers (as defined in section 103(b) of the
Family Leave Insurance Act) electing to participate in the Family and Medical Leave Insurance Program (established under section 112 of such Act); and

“(B) 0.2 percent with respect to all other employers.

“(3) EXCEPTION FOR CERTAIN EMPLOYERS.—Paragraph (1) shall not apply for any period with respect to an employer to whom paragraph (1) of section 3101(c) does not apply by reason of paragraph (3) thereof.”.

(c) SELF-EMPLOYED PREMIUMS.—Section 1401 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

“(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

“(1) IN GENERAL.—In addition to the taxes imposed by subsections (a) and (b), there is imposed for each taxable year, on the self-employment income of every individual, a family and medical leave premium equal to 0.4 percent of the amount of the self-employment income for such taxable year.
“(2) Exception for certain employers.—
Paragraph (1) shall not apply for any period with respect to an employer who has not elected to participate in the Family and Medical Leave Insurance Program (established under section 112 of the Family Leave Insurance Act).”.

(d) Conforming Amendments to Social Security Act.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended—

(1) by striking “sections 3101(b) and 3111(b)” both places it appears in subsection (a)(3) and inserting “sections 3101(b), 3101(c), 3111(b), and 3111(c)”, and

(2) by striking “section 1401(b)” both places it appears in subsection (a)(4) and inserting “sections 1401(b) and 1401(c)”. 

(e) Effective Date.—

(1) Employment premiums.—The amendments made by subsections (a), (b), and (d)(1) shall apply to wages paid after December 31, 2010.

(2) Self-employment premiums.—The amendments made by subsections (c) and (d)(2) shall apply to taxable years beginning after December 31, 2010.
Subtitle B—Family and Medical Leave Enhancement Act

SEC. 151. SHORT TITLE.

This subtitle may be cited as the “Family and Medical Leave Enhancement Act”.

SEC. 152. ELIGIBLE EMPLOYEE.

Section 101(2)(B)(ii) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii)) is amended by striking “less than 50” each place it appears and inserting “fewer than 25”.

SEC. 153. ENTITLEMENT TO ADDITIONAL LEAVE UNDER THE FMLA FOR PARENTAL INVOLVEMENT AND FAMILY WELLNESS.

(a) LEAVE REQUIREMENT.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following new paragraph:

“(6) ENTITLEMENT TO ADDITIONAL LEAVE FOR PARENTAL INVOLVEMENT AND FAMILY WELLNESS.—

“(A) IN GENERAL.—Subject to subparagraph (B) and section 103(g), an eligible employee shall be entitled to leave under this paragraph to—
“(i) participate in or attend an activity that is sponsored by a school or community organization and relates to a program of the school or organization that is attended by a son or daughter or a grandchild of the employee; or

“(ii) meet routine family medical care needs, including for medical and dental appointments of the employee or a son, daughter, spouse, or grandchild of the employee, or to attend to the care needs of elderly individuals who are related to the eligible employee, including visits to nursing homes and group homes.

“(B) LIMITATIONS.—

“(i) IN GENERAL.—An eligible employee is entitled to—

“(I) not to exceed 4 hours of leave under this paragraph during any 30-day period; and

“(II) not to exceed 24 hours of leave under this paragraph during any 12-month period.

“(ii) COORDINATION RULE.—Leave under this paragraph shall be in addition
to any leave provided under any other paragraph of this subsection.

“(C) DEFINITIONS.—As used in this paragraph:

“(i) SCHOOL.—The term ‘school’ means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), or a child care facility.

“(ii) COMMUNITY ORGANIZATION.—The term ‘community organization’ means a private nonprofit organization that is representative of a community or a significant segment of a community and provides activities for individuals described in subparagraph (A) or (B) of section 101(12), such as a scouting or sports organization.”.

(b) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the third sentence the following new sentence: “Leave under sub-
section (a)(6) may be taken intermittently or on a reduced leave schedule.”.

(c) Substitution of Paid Leave.—Section 102(d)(2) of such Act (29 U.S.C. 2612(d)(2)) is amended by adding at the end the following new subparagraph:

“(C) Parental Involvement Leave and Family Wellness Leave.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for any leave under subsection (a)(6). In addition, an eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid medical or sick leave of the employee for leave provided under clause (ii) of subsection (a)(6)(A) for any part of the leave under such clause, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave. If the employee elects or the employer requires the substitution of accrued paid leave for leave provided under subsection (a)(6)(A), the employer shall not restrict or
limit this substitution or impose any additional terms and conditions on such leave that are more stringent on the employee than the terms and conditions set forth in this Act.”.

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following new paragraph:

“(4) NOTICE RELATING TO PARENTAL INVOLVEMENT AND FAMILY WELLNESS LEAVE.—In any case in which an employee requests leave under paragraph (6) of subsection (a), the employee shall—

“(A) provide the employer with not less than 7 days’ notice or as much notice as is practicable before the date the leave is to be taken, of the employee’s intention to take leave under such paragraph; and

“(B) in the case of leave to be taken under subparagraph (A)(ii), make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider involved (if any).”.
(c) Certification.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following new subsection:

“(g) Certification Related to Parental Involvement and Family Wellness Leave.—An employer may require that a request for leave under section 102(a)(6) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.”.

(f) Definition of Grandchild.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following new paragraph:

“(20) Grandchild.—The term ‘grandchild’ means a son or daughter of an employee’s son or daughter.”.

SEC. 154. ENTITLEMENT OF FEDERAL EMPLOYEES TO LEAVE FOR PARENTAL INVOLVEMENT AND FAMILY WELLNESS.

(a) Leave Requirement.—Section 6382(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) Subject to subparagraph (B)(i) and section 6383(f), an employee shall be entitled to leave under this paragraph to—
“(i) participate in or attend an activity that is sponsored by a school or community organization and relates to a program of the school or organization that is attended by a son or daughter or a grandchild of the employee; or

“(ii) meet routine family medical care needs, including for medical and dental appointments of a son, daughter, spouse, or grandchild of the employee, or to attend to the care needs of elderly individuals who are related to the eligible employee, including visits to nursing homes and group homes.

“(B)(i) An employee is entitled to—

“(I) not to exceed 4 hours of leave under this paragraph during any 30-day period; and

“(II) not to exceed 24 hours of leave under this paragraph during any 12-month period.

“(ii) Leave under this paragraph shall be in addition to any leave provided under any other paragraph of this subsection.

“(C) For the purpose of this paragraph—

“(i) the term ‘school’ means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965), a Head Start pro-
gram assisted under the Head Start Act, and a child

care facility licensed under State law; and

“(ii) the term ‘community organization’ means

a private nonprofit organization that is representa-

tive of a community or a significant segment of a

community and provides activities for individuals de-

dscribed in subparagraph (A) or (B) of section

6381(6), such as a scouting or sports organization.”.

(b) SCHEDULE.—Section 6382(b)(1) of such title is

amended—

(1) by inserting after the second sentence the

following new sentence: “Leave under subsection

(a)(5) may be taken intermittently or on a reduced

leave schedule.”; and

(2) in the last sentence, by striking “involved,”

and inserting “involved (or, in the case of leave

under subsection (a)(5), for purposes of any 30-day

or 12-month period),”.

(c) SUBSTITUTION OF PAID LEAVE.—Section

6382(d) of such title is amended—

(1) by inserting “(1)” after the subsection des-

ignation; and

(2) by adding at the end the following:

“(2) An employee may elect to substitute for leave

under subsection (a)(5), any of the employee’s accrued or
accumulated annual or sick leave under subchapter I. If the employee elects to substitute accumulated annual or sick leave for leave provided under subsection (a)(5), the employing agency shall not restrict or limit this substitution or impose any additional terms and conditions on such leave that are more stringent on the employee than the terms and conditions set forth in this subchapter.”.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following new paragraph:

“(4) In any case in which an employee requests leave under paragraph (5) of subsection (a), the employee shall—

“(A) provide the employing agency with not less than 7 days’ notice, before the date the leave is to be taken, of the employee’s intention to take leave under such paragraph; and

“(B) in the case of leave to be taken under subparagraph (A)(ii), make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider involved (if any).”.

(e) CERTIFICATION.—Section 6383(f) of such title is amended by striking “6382(a)(3)” and inserting “paragraph (3) or (5) of section 6382(a)”.
(f) **DEFINITION OF GRANDCHILD.**—Section 6381 of title 5, United States Code, is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

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

“(13) the term ‘grandchild’ means a son or daughter of an employee’s son or daughter.”.

**Subtitle C—Domestic Violence Leave Act**

**SEC. 161. SHORT TITLE.**

This subtitle may be cited as the “Domestic Violence Leave Act”.

**SEC. 162. ENTITLEMENT TO LEAVE FOR DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.**

(a) **AUTHORITY FOR LEAVE.**—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following:

“(F) In order to care for the family member of the employee, if such family member is addressing domestic violence, sexual assault, or stalking and their effects.
“(G) Because the employee is addressing domestic violence, sexual assault, or stalking and their effects, the employee is unable to perform any of the functions of the position of such employee.”.

(b) Definitions.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) (as amended by section 193(f)) is further amended by adding at the end the following:

“(21) Domestic violence.—The term ‘domestic violence’ has the meaning given such term in section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. 13925), and includes dating violence, as such term is defined in such section.

“(22) Sexual assault.—The term ‘sexual assault’ has the meaning given that term in section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. 13925).

“(23) Stalking.—The term ‘stalking’ has the meaning given such term in section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. 13925).

“(24) Addressing domestic violence, sexual assault, or stalking and their effects.—
The term ‘addressing domestic violence, sexual assault, or stalking and their effects’ means—

“(A) seeking medical attention for or recovering from injuries caused by domestic violence, sexual assault, or stalking;

“(B) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence, sexual assault, or stalking;

“(C) attending support groups for victims of domestic violence, sexual assault, or stalking;

“(D) obtaining psychological counseling related to experiences of domestic violence, sexual assault, or stalking;

“(E) participating in safety planning and other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation; and

“(F) participating in any other activity necessitated by domestic violence, sexual assault, or stalking which must be undertaken during hours of employment.

“(25) FAMILY MEMBER.—The term ‘family member’, used with respect to a person, means an
individual who is a spouse, domestic partner, parent, son or daughter (including an adult son or daughter) of that person.”.

(e) INTERMITTENT OR REDUCED LEAVE.—Section 102(b)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(b)(1)) (as amended by section 193(b)) is further amended by inserting before the last sentence: “Subject to subsection (e)(4) and 103(g), leave under subparagraph (F) or (G) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule.”.

(d) PAID LEAVE.—Section 102(d)(2)(B) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(d)(2)(B)) is amended by inserting at the end the following: “An eligible employee may elect to substitute any of the accrued paid vacation leave, personal leave, family leave, or medical or sick leave of the employee for leave provided under subparagraph (F) or (G) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.”.

(e) NOTICE.—Section 102(e) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(e)) (as amended
by section 193(d)), is further amended by adding at the end the following:

“(5) NOTICE FOR LEAVE DUE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.—In any case in which the necessity for leave under subparagraph (F) or (G) of subsection (a)(1) is foreseeable based on a scheduled appointment or planned activity to address domestic violence, sexual assault, or stalking and their effects, the employee shall provide such notice to the employer as is reasonable and practicable.”.

(f) CERTIFICATION AND CONFIDENTIALITY.—Section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) (as amended by section 193(e)) is further amended—

(1) in the title, by adding before the period the following: “; confidentiality”; and

(2) by adding at the end the following:

“(h) CERTIFICATION RELATED TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

“(1) IN GENERAL.—In determining if an employee meets the requirements of subparagraph (F) or (G) of section 102(a)(1), the employer of an employee may require the employee to provide written
certification. Certification under this paragraph shall be sufficient if it includes—

“(A) documentation of the domestic violence, sexual assault, or stalking, such as police or court records, or documentation of the domestic violence, sexual assault, or stalking from a shelter worker, attorney, clergy, or medical or other professional from whom the employee or family member of the employee has sought assistance in addressing domestic violence, sexual assault, or stalking and their effects;

“(B) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, sexual assault, or stalking, such as photographs, or torn or bloody clothes;

“(C) at the election of the employee, where documentation described in subparagraph (A) and corroborating evidence described in subparagraph (B) is not available, a written statement describing the domestic violence, sexual assault, or stalking and their effects.
“(2) CONFIDENTIALITY.—All evidence of domestic violence, sexual assault, or stalking provided to an employer under this subsection, including an employee’s statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic violence, sexual assault, or stalking and their effects, shall be retained in the strictest confidence by the employer, except to the extent consented to by the employee where disclosure is necessary to—

“(A) protect the safety of the employee or family member of the employee; or

“(B) assist in documenting domestic violence, sexual assault, or stalking for a court or law enforcement agency.”.

(g) Table of Contents.—The table of contents in section 1(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. prev. 2601) is amended by striking the item relating to section 103 and inserting the following:

“103. Certification; confidentiality.”.

SEC. 163. INCLUSION OF SAME-SEX SPOUSES AND DOMESTIC PARTNERS.

(a) Definitions.—

(1) Inclusion of same-sex spouses.—Section 101(13) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(13)) is amended, by insert-
ing ‘‘, and, notwithstanding section 7 of title I, United States Code, includes a spouse of the same sex as the employee as determined under applicable State law’’ before the period.

(2) INCLUSION CHILDREN OF A DOMESTIC PARTNER.—Section 101(12) of such Act (29 U.S.C. 2611(12)) is amended by inserting ‘‘a child of an individual’s domestic partner,’’ after ‘‘a legal ward,’’.

(3) INCLUSION DOMESTIC PARTNERS.—Section 101 of such Act (as amended by section 162) is further amended by adding at the end the following:

‘‘(25) DOMESTIC PARTNER.—The term ‘domestic partner’ means—

‘‘(A) the person recognized as the domestic partner of the employee under any domestic partner registry or civil union laws of the State or political subdivision of a State where the employee resides; or

‘‘(B) in the case of an unmarried employee who resides in a State where a person cannot marry a person of the same sex under the laws of the State, a single, unmarried adult person of the same sex as the employee who is in a committed, intimate relationship with the employee, is not a domestic partner to any other
person, and who is designated to the employer by such employee as that employee’s domestic partner.”.

(b) LEAVE REQUIREMENT.—Section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612) is amended—

(1) in subsection (a)(1)(C), by striking “spouse,” both places it appears and inserting “spouse or domestic partner,”;

(2) in subsection (a)(1)(E), by striking spouse, and inserting “spouse or domestic partner,”;

(3) in subsection (a)(3), by striking “spouse,” and inserting “spouse or domestic partner,”;

(4) in subsection (e)(2)(A), by inserting “domestic partner,” after “spouse,”;

(5) in subsection (e)(3), by inserting “domestic partner,” after “spouse,”; and

(6) in subsection (f)—

(A) in the subsection heading, by inserting “OR DOMESTIC PARTNERS” after “SPOUSES”;

(B) in paragraph (1), by striking “a husband and wife” and inserting “both spouses or both domestic partners”;

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(C) in paragraph (2)(A), by striking “that husband and wife” and inserting “spouses or both domestic partners”; and

(D) in paragraph (2)(B), by striking “the husband and wife” and inserting “both spouses or both domestic partners”.

(e) Certification.—Section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) is amended—

(1) in subsection (a), by inserting “domestic partner,” after “spouse,”;

(2) in subsection (b)(4)(A), by inserting “domestic partner,” after “spouse,” both places it appears; and

(3) in subsection (b)(7), by inserting “domestic partner,” after “spouse,”.

(d) Employment and Benefits Protection.—

Section 104(c)(3) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2614(c)(3)) is amended—

(1) in subparagraph (A)(i), by inserting “domestic partner,” after “spouse,”; and

(2) in subparagraph (C)(ii), by inserting “domestic partner,” after “spouse,”.
SEC. 164. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOYEES FOR DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) AUTHORITY FOR LEAVE.—Section 6382(a)(1) of title 5, United States Code is amended by adding at the end the following:

“(F) In order to care for the family member of the employee, if such family member is addressing domestic violence, sexual assault, or stalking and their effects.

“(G) Because the employee is addressing domestic violence, sexual assault, or stalking and their effects, the employee is unable to perform any of the functions of the position of such employee.”.

(b) DEFINITIONS.—Section 6381 of title 5, United States Code (as amended by section 154(f)) is amended—

(1) at the end of paragraph (10), by striking “and”;

(2) in paragraph (11), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(14) the terms ‘domestic violence’, ‘sexual assault’, and ‘stalking’ all have the meaning given such terms in section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. 13925), and the
term ‘domestic violence’ includes dating violence, as such term is defined in such section;

“(15) the term ‘addressing domestic violence, sexual assault, or stalking and their effects’ means—

“(A) seeking medical attention for or recovering from injuries caused by domestic violence, sexual assault, or stalking;

“(B) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence, sexual assault, or stalking;

“(C) attending support groups for victims of domestic violence, sexual assault, or stalking;

“(D) obtaining psychological counseling related to experiences of domestic violence, sexual assault, or stalking;

“(E) participating in safety planning and other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation; and

“(F) participating in any other activity necessitated by domestic violence, sexual assault,
or stalking which must be undertaken during hours of employment; and

“(16) the term ‘family member’, used with re-
spect to a person, means an individual who is a spouse, domestic partner, parent, son or daughter (including an adult son or daughter) of that per-
son;”.

(c) INTERMITTENT OR REDUCED LEAVE.—Section 6382(b) of title 5, United States Code, (as amended by section 154(b)) is further amended by adding at the end the following:

“(3) Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.”.

(d) OTHER LEAVE.—Section 6382(d) of title 5, United States Code, (as amended by section 154(c)) is fur-
ther amended by striking “(C), or (D)” and inserting “(C), (D), (E), or (F)”.

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(e) NOTICE.—Section 6282(e) of title 5, United States Code, is amended by adding at the end the following:

“(3) In any case in which the necessity for leave under subparagraph (F) or (G) of subsection (a)(1) is foreseeable based on a scheduled appointment or planned activity to address domestic violence, sexual assault, or stalking and their effects, the employee shall provide such notice to the employing agency as is reasonable and practicable.”.

(f) CERTIFICATION.—Section 6383 of title 5, United States Code, is amended by adding at the end the following:

“(f) In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employing agency of an employee may require the employee to provide written certification. Certification under this subsection shall be sufficient if it includes—

“(1) documentation of the domestic violence, sexual assault, or stalking, such as police or court records, or documentation of the domestic violence, sexual assault, or stalking from a shelter worker, attorney, clergy, or medical or other professional from whom the employee or family member of the em-
ployee has sought assistance in addressing domestic violence, sexual assault, or stalking and their effects;

“(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, sexual assault, or stalking, such as photographs or torn or bloody clothes; or

“(3) at the election of the employee, where documentation described in paragraph (1) and corroborating evidence described in paragraph (2) is not available, a written statement describing the domestic violence, sexual assault, or stalking and their effects.”.

(g) CONFIDENTIALITY.—Section 6383 of title 5, United States Code, as amended by subsection (f), is amended—

(1) in the section heading, by adding before the period the following: “; confidentiality”; and

(2) by adding at the end the following:

“(g) All evidence of domestic violence, sexual assault, or stalking provided to an employing agency under this subsection, including an employee’s statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic vio-
lence, sexual assault, or stalking and their effects, shall be retained in the strictest confidence by the employing agency, except to the extent consented to by the employee where disclosure is necessary to—

“(1) protect the safety of the employee or family member of the employee; or

“(2) assist in documenting domestic violence, sexual assault, or stalking for a court or law enforcement agency.”.

(h) TABLE OF SECTIONS.—The table of sections for chapter 63 of title 5, United States Code, is amended by striking the item relating to section 6383 and inserting the following:

“6383. Certification; confidentiality.”.

SEC. 165. INCLUSION OF SAME-SEX SPOUSES AND DOMESTIC PARTNERS FOR LEAVE FOR FEDERAL EMPLOYEES.

(a) DEFINITIONS.—Section 6381 of title 5, United States Code, (as amended by section 164) is further amended—

(1) in paragraph (6), by inserting “a child of an individual’s domestic partner,” after “a legal ward,”; and

(2) by adding at the end the following:

“(17) the term ‘spouse’ means a husband or wife, as the case may be, and, notwithstanding sec-
tion 7 of title I, United States Code, includes a spouse of the same sex as the employee as determined under applicable State law; and

“(18) the term ‘domestic partner’ means—

“(A) the person recognized as the domestic partner of the employee under any domestic partner registry or civil union laws of the State or political subdivision of a State where the employee resides; or

“(B) in the case of an unmarried employee who resides in a State where a person cannot marry a person of the same sex under the laws of the State, a single, unmarried adult person of the same sex as the employee who is in a committed, intimate relationship with the employee, is not a domestic partner to any other person, and who is designated to the employing agency by such employee as that employee’s domestic partner.”.

(b) LEAVE REQUIREMENT.—Section 6382 of title 5, United States Code, is further amended—

(1) in subsection (a)(1)(C), by striking “spouse,” both places it appears and inserting “spouse or domestic partner,”;
(2) in subsection (a)(3), by striking “spouse,” and inserting “spouse or domestic partner,”; and

(3) in subsection (e)(2)(A), by inserting “domestic partner,” after “spouse,”.

(c) CERTIFICATION.—Section 6383 of title 5, United States Code, is further amended—

(1) in subsection (a), by inserting “domestic partner,” after “spouse,”; and

(2) in subsection (b)(4)(A), by inserting “domestic partner,” after “spouse,” both places it appears.

Subtitle D—Healthy Families Act

SEC. 171. SHORT TITLE.

This subtitle may be cited as the “Healthy Families Act”.

SEC. 172. PURPOSES.

The purposes of this subtitle are—

(1) to ensure that all working Americans can address their own health needs and the health needs of their families by requiring employers to permit employees to earn up to 56 hours of paid sick time including paid time for family care;

(2) to diminish public and private health care costs by enabling workers to seek early and routine
medical care for themselves and their family mem-
bers;

(3) to assist employees who are, or whose fam-
ily members are, victims of domestic violence, sexual
assault, or stalking, by providing the employees with
paid time away from work to allow the victims to re-
ceive treatment and to take the necessary steps to
ensure their protection;

(4) to accomplish the purposes described in
paragraphs (1) through (3) in a manner that is fea-
sible for employers; and

(5) consistent with the provision of the 14th
amendment to the Constitution relating to equal
protection of the laws, and pursuant to Congress’
power to enforce that provision under section 5 of
that amendment—

(A) to accomplish the purposes described
in paragraphs (1) through (3) in a manner that
minimizes the potential for employment dis-
crimination on the basis of sex by ensuring gen-
erally that paid sick time is available for eligible
medical reasons on a gender-neutral basis; and

(B) to promote the goal of equal employ-
ment opportunity for women and men.
SEC. 173. DEFINITIONS.

In this subtitle:

(1) CHILD.—The term “child” means a biological, foster, or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(2) DOMESTIC VIOLENCE.—The term “domestic violence” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), except that the reference in such section to the term “jurisdiction receiving grant monies” shall be deemed to mean the jurisdiction in which the victim lives or the jurisdiction in which the employer involved is located.

(3) EMPLOYEE.—The term “employee” means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be
considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (4)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(e) of title 3, United States Code; or

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code.

(4) EMPLOYER.—

(A) IN GENERAL.—The term “employer” means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);
(II) an entity employing a State em-
ployee described in section 304(a) of the
Government Employee Rights Act of 1991;

(III) an employing office, as defined
in section 101 of the Congressional Ac-
countability Act of 1995;

(IV) an employing office, as defined in
section 411(c) of title 3, United States
Code; or

(V) an employing agency covered
under subchapter V of chapter 63 of title
5, United States Code; and

(ii) is engaged in commerce (including
government), or an industry or activity af-
fected by commerce (including government),
as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph
(A)(i)(I), the term “covered employer”—

(I) means any person engaged in
commerce or in any industry or activ-
ity affecting commerce who employs
15 or more employees for each work-
ing day during each of 20 or more
calendar workweeks in the current or preceding calendar year;

(II) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(bb) any successor in interest of an employer;

(III) includes any “public agency”, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(III), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms “commerce” and “industry or activity
affecting commerce” mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include “commerce” and any “industry affecting commerce”, as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term “employee” has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term “person” has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

(5) EMPLOYMENT BENEFITS.—The term “employment benefits” means all benefits provided or
made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(6) HEALTH CARE PROVIDER.—The term “health care provider” means a provider who—

(A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) is any other person determined by the Secretary to be capable of providing health care services; and

(B) is not employed by an employer for whom the provider issues certification under this subtitle.

(7) PAID SICK TIME.—The term “paid sick time” means an increment of compensated leave that can be earned by an employee for use during an absence from employment for any of the reasons de-
scribed in paragraphs (1) through (4) of section 5(b).

(8) PARENT.—The term “parent” means a biological, foster, or adoptive parent of an employee, a stepparent of an employee, or a legal guardian or other person who stood in loco parentis to an employee when the employee was a child.

(9) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(10) SEXUAL ASSAULT.—The term “sexual assault” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(11) SPOUSE.—The term “spouse”, with respect to an employee, has the meaning given such term by the marriage laws of the State in which the employee resides.

(12) STALKING.—The term “stalking” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(13) VICTIM SERVICES ORGANIZATION.—The term “victim services organization” means a non-profit, nongovernmental organization that provides assistance to victims of domestic violence, sexual as-
sault, or stalking or advocates for such victims, in-
cluding a rape crisis center, an organization carrying
out a domestic violence, sexual assault, or stalking
prevention or treatment program, an organization
operating a shelter or providing counseling services,
or a legal services organization or other organization
providing assistance through the legal process.

SEC. 174. PROVISION OF PAID SICK TIME.

(a) ACCRUAL OF PAID SICK TIME.—

(1) IN GENERAL.—An employer shall permit
each employee employed by the employer to earn not
less than 1 hour of paid sick time for every 30 hours
worked, to be used as described in subsection (b).
An employer shall not be required to permit an em-
ployee to earn, under this section, more than 56
hours of paid sick time in a calendar year, unless
the employer chooses to set a higher limit.

(2) EXEMPT EMPLOYEES.—

(A) IN GENERAL.—Except as provided in
paragraph (3), for purposes of this section, an
employee who is exempt from overtime require-
ments under section 13(a)(1) of the Fair Labor
Standards Act of 1938 (29 U.S.C. 213(a)(1))
shall be assumed to work 40 hours in each
workweek.
(B) **Shorter Normal Workweek.**—If the normal workweek of such an employee is less than 40 hours, the employee shall earn paid sick time based upon that normal workweek.

(3) **Dates of Accrual and Use.**—Employees shall begin to earn paid sick time under this section at the commencement of their employment. An employee shall be entitled to use the earned paid sick time beginning on the 60th calendar day following commencement of the employee’s employment. After that 60th calendar day, the employee may use the paid sick time as the time is earned. An employer may, at the discretion of the employer, loan paid sick time to an employee in advance of the earning of such time under this section by such employee.

(4) **Carryover.** —

(A) **In General.**—Except as provided in subparagraph (B), paid sick time earned under this section shall carry over from 1 calendar year to the next.

(B) **Construction.**—This subtitle shall not be construed to require an employer to permit an employee to accrue more than 56 hours of earned paid sick time at a given time.
(5) **Employers with existing policies.**—

Any employer with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as the purposes and conditions outlined in subsection (b) shall not be required to permit an employee to earn additional paid sick time under this section.

(6) **Construction.**—Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee’s termination, resignation, retirement, or other separation from employment for earned paid sick time that has not been used.

(7) **Reinstatement.**—If an employee is separated from employment with an employer and is rehired, within 12 months after that separation, by the same employer, the employer shall reinstate the employee’s previously earned paid sick time. The employee shall be entitled to use the earned paid sick time and earn additional paid sick time at the recommencement of employment with the employer.

(8) **Prohibition.**—An employer may not require, as a condition of providing paid sick time
under this subtitle, that the employee involved search for or find a replacement worker to cover the hours during which the employee is using paid sick time.

(b) Uses.—Paid sick time earned under this section may be used by an employee for any of the following:

(1) An absence resulting from a physical or mental illness, injury, or medical condition of the employee.

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee.

(3) An absence for the purpose of caring for a child, a parent, a spouse, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, who—

(A) has any of the conditions or needs for diagnosis or care described in paragraph (1) or (2); and

(B) in the case of someone who is not a child, is otherwise in need of care.

(4) An absence resulting from domestic violence, sexual assault, or stalking, if the time is to—
(A) seek medical attention for the employee or the employee’s child, parent, or spouse, or an individual related to the employee as described in paragraph (3), to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(B) obtain or assist a related person described in paragraph (3) in obtaining services from a victim services organization;

(C) obtain or assist a related person described in paragraph (3) in obtaining psychological or other counseling;

(D) seek relocation; or

(E) take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic violence, sexual assault, or stalking.

(c) SCHEDULING.—An employee shall make a reasonable effort to schedule a period of paid sick time under this subtitle in a manner that does not unduly disrupt the operations of the employer.

(d) PROCEDURES.—
(1) IN GENERAL.—Paid sick time shall be provided upon the oral or written request of an employee. Such request shall—

(A) include the expected duration of the period of such time;

(B) in a case in which the need for such period of time is foreseeable at least 7 days in advance of such period, be provided at least 7 days in advance of such period; and

(C) otherwise, be provided as soon as practicable after the employee is aware of the need for such period.

(2) CERTIFICATION IN GENERAL.—

(A) Provision.—

(i) IN GENERAL.—Subject to subparagraph (C), an employer may require that a request for paid sick time under this section for a purpose described in paragraph (1), (2), or (3) of subsection (b) be supported by a certification issued by the health care provider of the eligible employee or of an individual described in subsection (b)(3), as appropriate, if the period of such time covers more than 3 consecutive workdays.
(ii) **Timeliness.**—The employee shall provide a copy of such certification to the employer in a timely manner, not later than 30 days after the first day of the period of time. The employer shall not delay the commencement of the period of time on the basis that the employer has not yet received the certification.

(B) **Sufficient Certification.**—

(i) **In General.**—A certification provided under subparagraph (A) shall be sufficient if it states—

(I) the date on which the period of time will be needed;

(II) the probable duration of the period of time;

(III) the appropriate medical facts within the knowledge of the health care provider regarding the condition involved, subject to clause (ii); and

(IV)(aa) for purposes of paid sick time under subsection (b)(1), a statement that absence from work is medically necessary;
(bb) for purposes of such time under subsection (b)(2), the dates on which testing for a medical diagnosis or care is expected to be given and the duration of such testing or care; and

(cc) for purposes of such time under subsection (b)(3), in the case of time to care for someone who is not a child, a statement that care is needed for an individual described in such subsection, and an estimate of the amount of time that such care is needed for such individual.

(ii) LIMITATION.—In issuing a certification under subparagraph (A), a health care provider shall make reasonable efforts to limit the medical facts described in clause (i)(III) that are disclosed in the certification to the minimum necessary to establish a need for the employee to utilize paid sick time.

(C) REGULATIONS.—Regulations prescribed under section 182 shall specify the manner in which an employee who does not have
health insurance shall provide a certification for
purposes of this paragraph.

(D) CONFIDENTIALITY AND NONDISCLOSURE.—

(i) PROTECTED HEALTH INFORMATION.—Nothing in this subtitle shall be
construed to require a health care provider
to disclose information in violation of sec-
tion 1177 of the Social Security Act (42
U.S.C. 1320d–6) or the regulations pro-
mulgated pursuant to section 264(c) of the
Health Insurance Portability and Account-
ability Act of 1996 (42 U.S.C. 1320d–2
note).

(ii) HEALTH INFORMATION
records.—If an employer possesses
health information about an employee or
an employee’s child, parent, spouse or
other individual described in subsection
(b)(3), such information shall—

(I) be maintained on a separate
form and in a separate file from other
personnel information;

(II) be treated as a confidential
medical record; and
(III) not be disclosed except to
the affected employee or with the per-
mission of the affected employee.

(3) Certification in the case of domestic
violence, sexual assault, or stalking.—

(A) In general.—An employer may re-
quire that a request for paid sick time under
this section for a purpose described in sub-
section (b)(4) be supported by 1 of the fol-
lowing forms of documentation:

(i) A police report indicating that the
employee, or a member of the employee’s
family described in subsection (b)(4), was
a victim of domestic violence, sexual as-
sault, or stalking.

(ii) A court order protecting or sepa-
rating the employee or a member of the
employee’s family described in subsection
(b)(4) from the perpetrator of an act of
domestic violence, sexual assault, or stalk-
ing, or other evidence from the court or
prosecuting attorney that the employee or
a member of the employee’s family de-
scribed in subsection (b)(4) has appeared
in court or is scheduled to appear in court
in a proceeding related to domestic vio-
ence, sexual assault, or stalking.

(iii) Other documentation signed by
an employee or volunteer working for a vic-
tim services organization, an attorney, a
police officer, a medical professional, a so-
cial worker, an antiviolence counselor, or a
member of the clergy, affirming that the
employee or a member of the employee’s
family described in subsection (b)(4) is a
victim of domestic violence, sexual assault,
or stalking.

(B) REQUIREMENTS.—The requirements
of paragraph (2) shall apply to certifications
under this paragraph, except that—

(i) subclauses (III) and (IV) of sub-
paragraph (B)(i) and subparagraph (B)(ii)
of such paragraph shall not apply;

(ii) the certification shall state the
reason that the leave is required with the
facts to be disclosed limited to the min-
imum necessary to establish a need for the
employee to be absent from work, and the
employee shall not be required to explain
the details of the domestic violence, sexual assault, or stalking involved; and

(iii) with respect to confidentiality under subparagraph (D) of such paragraph, any information provided to the employer under this paragraph shall be confidential, except to the extent that any disclosure of such information is—

(I) requested or consented to in writing by the employee; or

(II) otherwise required by applicable Federal or State law.

SEC. 175. POSTING REQUIREMENT.

(a) IN GENERAL.—Each employer shall post and keep posted a notice, to be prepared or approved in accordance with procedures specified in regulations prescribed under section 182, setting forth excerpts from, or summaries of, the pertinent provisions of this subtitle including—

(1) information describing paid sick time available to employees under this subtitle;

(2) information pertaining to the filing of an action under this subtitle;
(3) the details of the notice requirement for a foreseeable period of time under section 174(d)(1)(B); and

(4) information that describes—

(A) the protections that an employee has in exercising rights under this subtitle; and

(B) how the employee can contact the Secretary (or other appropriate authority as described in section 177) if any of the rights are violated.

(b) Location.—The notice described under subsection (a) shall be posted—

(1) in conspicuous places on the premises of the employer, where notices to employees (including applicants) are customarily posted; or

(2) in employee handbooks.

(c) Violation; Penalty.—Any employer who willfully violates the posting requirements of this section shall be subject to a civil fine in an amount not to exceed $100 for each separate offense.

SEC. 176. PROHIBITED ACTS.

(a) Interference With Rights.—

(1) Exercise of rights.—It shall be unlawful for any employer to interfere with, restrain, or deny
the exercise of, or the attempt to exercise, any right
provided under this subtitle, including—

(A) discharging or discriminating against
(including retaliating against) any individual,
including a job applicant, for exercising, or at-
ttempting to exercise, any right provided under
this subtitle;

(B) using the taking of paid sick time
under this subtitle as a negative factor in an
employment action, such as hiring, promotion,
or a disciplinary action; or

(C) counting the paid sick time under a
no-fault attendance policy or any other absence
control policy.

(2) DISCRIMINATION.—It shall be unlawful for
any employer to discharge or in any other manner
discriminate against (including retaliating against)
any individual, including a job applicant, for oppos-
ing any practice made unlawful by this subtitle.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
IES.—It shall be unlawful for any person to discharge or
in any other manner discriminate against (including retali-
ating against) any individual, including a job applicant,
because such individual—
(1) has filed an action, or has instituted or
caused to be instituted any proceeding, under or re-
lated to this subtitle;

(2) has given, or is about to give, any informa-
tion in connection with any inquiry or proceeding re-
lating to any right provided under this subtitle; or

(3) has testified, or is about to testify, in any
inquiry or proceeding relating to any right provided
under this subtitle.

(c) CONSTRUCTION.—Nothing in this section shall be
construed to state or imply that the scope of the activities
prohibited by section 105 of the Family and Medical Leave
Act of 1993 (29 U.S.C. 2615) is less than the scope of
the activities prohibited by this section.

SEC. 177. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this subsection:

(A) the term “employee” means an em-
ployee described in subparagraph (A) or (B) of
section 173(3); and

(B) the term “employer” means an em-
ployer described in subclause (I) or (II) of sec-
tion 173(4)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—
(A) IN GENERAL.—To ensure compliance with the provisions of this subtitle, or any regulation or order issued under this subtitle, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employers, employees, and other individuals affected.

(B) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall make, keep, and preserve records pertaining to compliance with this subtitle in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations prescribed by the Secretary.

(C) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not require, under the authority of this paragraph, an employer to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this subtitle or any regulation or order issued pursuant to this subtitle,
or is investigating a charge pursuant to paragraph (4).

(D) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES OR INDIVIDUALS.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) LIABILITY.—Any employer who violates section 176 (including a violation relating to rights provided under section 174) shall be liable to any employee or individual affected—

(i) for damages equal to—
the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost, any actual monetary losses sustained as a direct result of the violation up to a sum equal to 56 hours of wages or salary for the employee or individual;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(C) FEES AND COSTS.—The court in an action under this paragraph shall, in addition to any judgment awarded to the plaintiff, allow a
reasonable attorney’s fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) **ACTION BY THE SECRETARY.**—

(A) **ADMINISTRATIVE ACTION.**—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 176 (including a violation relating to rights provided under section 174) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) **CIVIL ACTION.**—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).

(C) **SUMS RECOVERED.**—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited...
into the Treasury of the United States as miscellaneous receipts.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under paragraph (3), (4), or (6) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of an action brought for a willful violation of section 176 (including a willful violation relating to rights provided under section 174), such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced under paragraph (3), (4), or (6) for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(6) ACTION FOR INJUNCTION BY SECRETARY.—

The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—
(A) to restrain violations of section 176
(including a violation relating to rights provided
under section 174), including the restraint of
any withholding of payment of wages, salary,
employment benefits, or other compensation,
plus interest, found by the court to be due to
employees or individuals eligible under this sub-
title; or

(B) to award such other equitable relief as
may be appropriate, including employment, re-
instatement, and promotion.

(7) SOLICITOR OF LABOR.—The Solicitor of
Labor may appear for and represent the Secretary
on any litigation brought under paragraph (4) or
(6).

(8) GOVERNMENT ACCOUNTABILITY OFFICE
AND LIBRARY OF CONGRESS.—Notwithstanding any
other provision of this subsection, in the case of the
Government Accountability Office and the Library of
Congress, the authority of the Secretary of Labor
under this subsection shall be exercised respectively
by the Comptroller General of the United States and
the Librarian of Congress.

(b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
COUNTABILITY ACT OF 1995.—The powers, remedies, and
procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies, and procedures this subtitle provides to that Board, or any person, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 173(3)(C).

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this subtitle provides to the President, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 173(3)(D).

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of
that title, shall be the powers, remedies, and procedures this subtitle provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 173(3)(E).

(e) Remedies for State Employees.—

(1) Waiver of sovereign immunity.—A State’s receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this subtitle for equitable, legal, or other relief authorized under this subtitle.

(2) Official capacity.—An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures under subsection (a)(3), for injunctive relief that is authorized under this subtitle. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).

(3) Applicability.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date
of enactment of this subtitle, on which a State first receives or uses Federal financial assistance for that program or activity.

(4) DEFINITION OF PROGRAM OR ACTIVITY.—In this subsection, the term “program or activity” has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

SEC. 178. COLLECTION OF DATA ON PAID SICK TIME AND FURTHER STUDY.

(a) COMPILATION OF INFORMATION.—Effective 90 days after the date of enactment of this subtitle, the Commissioner of Labor Statistics shall annually compile information on the following:

(1) The number of employees who used paid sick time.

(2) The number of hours of paid sick time used.

(3) The number of employees who used paid sick time for absences necessary due to domestic violence, sexual assault, or stalking.

(4) The demographic characteristics of employees who were eligible for and who used paid sick time.

(b) GAO STUDY.—
(1) IN GENERAL.—The Comptroller General of the United States shall annually conduct a study to determine the following:

(A)(i) The number of days employees used paid sick time and the reasons for the use.

(ii) The number of employees who used the paid sick time for periods of time covering more than 3 consecutive workdays.

(B) The cost and benefits to employers of implementing the paid sick time policies.

(C) The cost to employees of providing certification to obtain the paid sick time.

(D) The benefits of the paid sick time to employees and their family members, including effects on employees’ ability to care for their family members or to provide for their own health needs.

(E) Whether the paid sick time affected employees’ ability to sustain an adequate income while meeting needs of the employees and their family members.

(F) Whether employers who administered paid sick time policies prior to the date of enactment of this subtitle were affected by the provisions of this subtitle.
(G) Whether other types of leave were affected by this subtitle.

(H) Whether paid sick time affected retention and turnover and costs of presenteeism.

(I) Whether the paid sick time increased the use of less costly preventive medical care and lowered the use of emergency room care.

(J) Whether the paid sick time reduced the number of children sent to school when the children were sick.

(2) Aggregating Data.—The data collected under subparagraphs (A) and (D) of paragraph (1) shall be aggregated by gender, race, disability, earnings level, age, marital status, family type, including parental status, and industry.

(3) Reports.—

(A) In General.—Not later than 18 months after the date of enactment of this subtitle, the Comptroller General of the United States shall prepare and submit a report to the appropriate committees of Congress concerning the results of the study conducted pursuant to paragraph (1) and the data aggregated under paragraph (2).
(B) FOLLOWUP REPORT.—Not later than 5 years after the date of enactment of this sub-
title, the Comptroller General of the United States shall prepare and submit a followup re-
port to the appropriate committees of Congress concerning the results of the study conducted pursuant to paragraph (1) and the data aggre-
gated under paragraph (2).

SEC. 179. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this subtitle shall be construed to modify or affect any Federal or State law prohibiting dis-

(b) STATE AND LOCAL LAWS.—Nothing in this sub-
title shall be construed to supersede (including pre-
empting) any provision of any State or local law that pro-
vides greater paid sick time or leave rights (including greater paid sick time or leave, or greater coverage of those eligible for paid sick time or leave) than the rights established under this subtitle.

SEC. 180. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this subtitle shall be construed to diminish the obligation of an em-
ployer to comply with any contract, collective bargaining
agreement, or any employment benefit program or plan that provides greater paid sick leave or other leave rights to employees or individuals than the rights established under this subtitle.

(b) LESS PROTECTIVE.—The rights established for employees under this subtitle shall not be diminished by any contract, collective bargaining agreement, or any employment benefit program or plan.

SEC. 181. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this subtitle shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this subtitle.

SEC. 182. REGULATIONS.

(a) IN GENERAL.—

(1) AUTHORITY.—Except as provided in paragraph (2), not later than 180 days after the date of enactment of this subtitle, the Secretary shall prescribe such regulations as are necessary to carry out this subtitle with respect to employees described in subparagraph (A) or (B) of section 173(3) and other individuals affected by employers described in subtitle (I) or (II) of section 173(4)(A)(i).
(2) GOVERNMENT ACCOUNTABILITY OFFICE; LIBRARY OF CONGRESS.—The Comptroller General of the United States and the Librarian of Congress shall prescribe the regulations with respect to employees of the Government Accountability Office and the Library of Congress, respectively and other individuals affected by the Comptroller General of the United States and the Librarian of Congress, respectively.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) AUTHORITY.—Not later than 120 days after the date of enactment of this subtitle, the Board of Directors of the Office of Compliance shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) such regulations as are necessary to carry out this subtitle with respect to employees described in section 173(3)(C) and other individuals affected by employers described in section 173(4)(A)(i)(III).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this subtitle except insofar as the Board may determine, for good cause shown and
stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) AUTHORITY.—Not later than 120 days after the date of enactment of this subtitle, the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this subtitle with respect to employees described in section 173(3)(D) and other individuals affected by employers described in section 173(4)(A)(i)(IV).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this subtitle except insofar as the President (or designee) may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.
(d) Employees Covered by Chapter 63 of Title 5, United States Code.—

(1) Authority.—Not later than 120 days after the date of enactment of this subtitle, the Director of the Office of Personnel Management shall prescribe such regulations as are necessary to carry out this subtitle with respect to employees described in section 173(3)(E) and other individuals affected by employers described in section 173(4)(A)(i)(V).

(2) Agency Regulations.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this subtitle except insofar as the Director may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

SEC. 183. EFFECTIVE DATES.

(a) Effective Date.—This subtitle shall take effect 6 months after the date of issuance of regulations under section 182(a)(1).

(b) Collective Bargaining Agreements.—In the case of a collective bargaining agreement in effect on the
effective date prescribed by subsection (a), this subtitle shall take effect on the earlier of—

(1) the date of the termination of such agreement; or

(2) the date that occurs 18 months after the date of issuance of regulations under section 182(a)(1).

TITLE II—CHILD CARE EXPANSION AND IMPROVEMENT

Subtitle A—Care for Young Children

SEC. 201. EXPANDING CHILD CARE FOR YOUNG CHILDREN.

(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 (4), by striking “and”;

(2) in paragraph (5), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(6) to assist States in improving child care services for young children.”.

(b) 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 “There” and inserting “(a) In General.—There”; and
(2) by adding at the end the following:

“(b) CHILD CARE ACTIVITIES FOR YOUNG CHILDREN.—In addition to amounts appropriated under subsection (a), there is authorized to be appropriated to carry out child care activities for young children under this subchapter $500,000,000 for each of the fiscal years 2012, 2013, and 2014.”.

(c) CHILD CARE ACTIVITIES FOR YOUNG CHILDREN.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 et seq.) is amended by inserting after section 658G the following:

“SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHILDREN.

“Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:

“(1) Increase the availability of child care services for young children with disabilities.

“(2) Provide support services for networks of family child care providers.

“(3) Provide or support programs that provide training, services, materials, equipment, or other support to caregivers, eligible child care providers,
and family child care providers that provide child care to young children. Such support may include the purchase of equipment such as cribs and high chairs.

“(4) Provide funds to increase compensation offered and provide bonuses to caregivers, eligible child care providers, and family child care providers who provide child care to children under the age of 3 years, especially those caregivers and providers who have formal education in early childhood development.

“(5) Provide and support networks between health care providers and caregivers, eligible child care providers, and family child care providers that provide child care to young children.

“(6) Provide child care services for young children who are enrolled in Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.).”.

(d) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended by adding at the end the following:

“(15) YOUNG CHILDREN.—The term ‘young children’ means eligible children who are less than 3 years of age.”.
Subtitle B—Improving Child Care Quality Through Teacher Incentives

SEC. 211. PURPOSE.

The purposes of this subtitle are—

(1) to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage; and

(2) to help children receive the high-quality child care and early education the children need for positive cognitive and social development, by rewarding and promoting the retention of committed, qualified child care providers and by providing financial assistance to improve the educational qualifications of child care providers.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) Child care provider.—The term “child care provider” means an individual who provides a service directly to a child on a person-to-person basis for compensation for—

(A) a center-based child care provider that is licensed or regulated under State or local law and that satisfies the State and local require-
ments applicable to the child care services provided;

(B) a licensed or regulated family child care provider that satisfies the State and local requirements applicable to the child care services provided; or

(C) an out-of-school time program that is licensed or regulated under State or local law and that satisfies the State and local requirements applicable to the child care services provided.

(2) FAMILY CHILD CARE PROVIDER.—The term “family child care provider” has the meaning given such term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) LEAD AGENCY.—The term “lead agency” means the agency designated under section 658D of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858b).
(5) Secretary.—The term “Secretary” means the Secretary of Health and Human Services.

(6) State.—The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(7) Tribal organization.—The term “tribal organization” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 213. FUNDS FOR CHILD CARE PROVIDER DEVELOPMENT AND RETENTION GRANTS, SCHOLARSHIPS, AND HEALTH BENEFITS COVERAGE.

(a) In general.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal share of the cost of carrying out activities under sections 216, 217, and 218 for eligible child care providers.

(b) Allotments.—The funds shall be allotted and distributed, and the payments shall be made, by the Secretary in accordance with section 214, and expended by the States (directly, or at the option of the States, through units of general purpose local government), and by Indian
tribes and tribal organizations, in accordance with this subtitle.

**SEC. 214. ALLOTMENTS TO STATES.**

(a) **Amounts Reserved.**—

(1) **Territories and Possessions.**—The Secretary shall reserve not more than \( \frac{1}{2} \) of 1 percent of the funds appropriated under section 221(a), and not more than \( \frac{1}{2} \) of 1 percent of the funds appropriated under section 222(b), for any fiscal year for payments to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) **Indian Tribes and Tribal Organizations.**—The Secretary shall reserve not more than 3 percent of the funds appropriated under section 221(a), and not more than 3 percent of the funds appropriated under section 221(b), for any fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

(b) **Allotments to Remaining States.**—

(1) **General Authority.**—From the funds appropriated under section 221(a) for any fiscal year and remaining after the reservations made under...
subsection (a), and from the funds appropriated under section 221(b) for any fiscal year and remaining after the reservations made under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of the appropriate remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

(2) YOUNG CHILD FACTOR.—In this subsection, the term “young child factor” means the ratio of the number of children under 5 years of age in the State to the number of such children in all the States, as determined according to the most recent annual estimates of population in the States, as provided by the Bureau of the Census.
(3) **School Lunch Factor.**—In this subsection, the term “school lunch factor” means the ratio of the number of children who are receiving free or reduced price lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) in the State to the number of such children in all the States, as determined annually by the Department of Agriculture.

(4) **Allotment Percentage.**—

(A) **In General.**—Except as provided in subparagraph (B), for purposes of this subsection, the allotment percentage for a State shall be determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

(B) **Limitations.**—For purposes of this subsection, if an allotment percentage determined under subparagraph (A)—

(i) is more than 1.2 percent, the allotment percentage of that State shall be considered to be 1.2 percent; and
(ii) is less than 0.8 percent, the allotment percentage of the State shall be considered to be 0.8 percent.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning after the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

(1) RESERVATION OF FUNDS.—From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes and tribal organizations that submit applications under this subsection, to plan and carry out programs and activities—
(A) to encourage child care providers to improve their qualifications;

(B) to retain qualified child care providers in the child care field; and

(C) to provide health benefits coverage for child care providers.

(2) APPLICATIONS AND REQUIREMENTS.—To be eligible to receive a grant or contract under this subsection, an Indian tribe or tribal organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall provide that the applicant—

(A) will coordinate the programs and activities involved, to the maximum extent practicable, with the lead agency in each State in which the applicant will carry out such programs and activities; and

(B) will make such reports on, and conduct such audits of the funds made available through the grant or contract for, programs and activities under this subtitle as the Secretary may require.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most re-
cent data and information necessary to determine the allotments provided for in subsection (b).

(c) Reallocation.—

(1) In general.—Any portion of an allotment under subsection (b) to a State for a fiscal year that the Secretary determines will not be distributed to the State for such fiscal year shall be reallocated by the Secretary to other States in proportion to the original corresponding allotments made under such subsection to such States for such fiscal year.

(2) Limitations.—

(A) Reduction.—The amount of any reallocation to which a State is entitled under this subsection shall be reduced to the extent that such amount exceeds the amount that the Secretary estimates will be distributed to the State to carry out corresponding activities under this subtitle.

(B) Reallocation.—The amount of such reduction shall be reallocated to States for which no reduction in a corresponding allotment, or in a corresponding reallocation, is required by this subsection, in proportion to the original corresponding allotments made under
subsection (b) to such States for such fiscal year.

(3) Amounts RealloTTed.—For purposes of this subtitle (other than this subsection and subsection (b)), any amount reallocated to a State under this subsection shall be considered to be part of the corresponding allotment made under subsection (b) to the State.

(4) Indian Tribes or Tribal Organizations.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provisions of this subtitle in the period for which the grant or contract is made available, shall be used by the Secretary to make payments to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.

(f) Cost-Sharing.—

(1) Child care provider development and retention grants and scholarships.—

(A) Federal share.—The Federal share of the cost of carrying out activities under sections 216 and 217, with funds allotted under
this section and distributed by the Secretary to a State, shall be—

(i) not more than 90 percent of the cost of each grant made under such sections, in the first fiscal year for which the State receives such funds;

(ii) not more than 85 percent of the cost of each grant made under such sections, in the second fiscal year for which the State receives such funds;

(iii) not more than 80 percent of the cost of each grant made under such sections, in the third fiscal year for which the State receives such funds; and

(iv) not more than 75 percent of the cost of each grant made under such sections, in any subsequent fiscal year for which the State receives such funds.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The State may provide the non-Federal share of the cost in cash or in the form of an in-kind contribution, fairly evaluated by the Secretary.

(ii) IN-KIND CONTRIBUTION.—In this subparagraph, the term “in-kind contribu-
tion” means payment of the costs of participation of eligible child care providers in health insurance programs or retirement programs.

(2) Child care provider health benefits coverage.—

(A) Federal share.—The Federal share of the cost of carrying out activities under section 218, with funds allotted under this section and distributed by the Secretary to a State, shall be not more than 50 percent of such cost.

(B) Non-Federal share.—The State may provide the non-Federal share of the cost in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services. The State shall provide the non-Federal share directly or through donations from public or private entities. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such share.

(g) Availability of allotted funds distributed to States.—Of the funds allotted under this sec-
tion for activities described in sections 216 and 217 and distributed by the Secretary to a State for a fiscal year—

(1) not less than 67.5 percent shall be available to the State for grants under section 216;

(2) not less than 22.5 percent shall be available to the State for grants under section 217; and

(3) not more than 10 percent shall be available to pay administrative costs incurred by the State to carry out activities described in sections 216 and 217.

(h) DEFINITION.—For the purposes of subsections (a) through (e), the term “State” includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 215. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive a distribution of funds allotted under section 214, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require by rule and shall include in such application—

(1) a State plan that satisfies the requirements of subsection (b); and
(2) assurances of compliance satisfactory to the Secretary with respect to the requirements of section 218.

(b) Requirements of Plan.—

(1) Lead Agency.—The State plan shall identify the lead agency to make grants under this subtitle for the State.

(2) Recruitment and Retention of Child Care Providers.—The State plan shall describe how the lead agency will encourage both the recruitment of qualified child care providers who are new to the child care field and the retention of qualified child care providers who have a demonstrated commitment to the child care field.

(3) Notification of Availability of Grants and Benefits.—The State plan shall describe how the lead agency will identify all eligible child care providers in the State and notify the providers of the availability of grants and benefits under this subtitle.

(4) Distribution of Grants.—The State plan shall describe how the lead agency will make grants under sections 216 and 217 to eligible child care providers in selected geographical areas in the State in compliance with the following requirements:
(A) Selection of geographical areas.—For the purpose of making such grants for a fiscal year, the State shall—

(i) select a variety of geographical areas, determined by the State, that, collectively—

(I) include urban areas, suburban areas, and rural areas; and

(II) are areas whose residents have diverse income levels; and

(ii) give special consideration to geographical areas selected under this subparagraph for the preceding fiscal year.

(B) Selection of child care providers to receive grants.—In making grants under section 216, the State may make grants only to eligible child care providers in geographical areas selected under subparagraph (A), but may give special consideration in such areas to eligible child care providers—

(i) who have attained a higher relevant educational credential;

(ii) who provide a specific kind of child care services;
(iii) who provide child care services to populations who meet specific economic characteristics; or

(iv) who meet such other criteria as the State may establish.

(C) LIMITATION.—The State shall describe how the State will ensure that grants made under section 216 to child care providers will not be used to offset reductions in the compensation of such providers.

(D) REPORTING REQUIREMENT.—With respect to each particular geographical area selected under subparagraph (A), the State shall provide an assurance that the State will, for each fiscal year for which such State receives a grant under section 216—

(i) include in the report required by section 219, detailed information regarding—

(I) the continuity of employment of the grant recipients as child care providers with the same employer;

(II) with respect to each employer that employed such a grant recipient, whether such employer was
accredited by a recognized national or State accrediting body during the per-
period of employment; and

(III) to the extent practicable and available to the State, the rate
and frequency of employment turnover of qualified child care providers
throughout such area,
during the 2-year period ending on the deadline for submission of applications for
grants under section 216 for that fiscal year; and

(ii) provide a follow-up report, not later than 90 days after the end of the suc-
ceeding fiscal year that includes informa-
tion regarding—

(I) the continuity of employment of the grant recipients as child care
providers with the same employer;

(II) with respect to each em-
ployer that employed such a grant re-
cipient, whether such employer was accredited by a recognized national or
State accrediting body during the pe-
period of employment; and
(III) to the extent practicable and available to the State, detailed information regarding the rate and frequency of employment turnover of qualified child care providers throughout such area, during the 1-year period beginning on the date on which the grant to the State was made under section 216.

(5) Child care provider development and retention grant program.—The State plan shall describe how the lead agency will determine the amounts of grants to be made under section 216 in accordance with the following requirements:

(A) Sufficient amounts.—The State shall demonstrate that the amounts of individual grants to be made under section 216 will be sufficient—

(i) to encourage child care providers to improve their qualifications; and

(ii) to retain qualified child care providers in the child care field.

(B) Amounts to credentialed providers.—Such grants made to eligible child care providers who have a child development as-
sociate credential (or equivalent) and who are employed full-time to provide child care services shall be in an amount that is not less than $1,000 per year.

(C) Amounts to Providers with Higher Levels of Education.—The State shall make such grants in amounts greater than $1,000 per year to eligible child care providers who have higher levels of education than the education required for a credential such as a child development associate credential (or equivalent), according to the following requirements:

(i) Providers with Baccalaureate Degrees in Relevant Fields.—An eligible child care provider who has a baccalaureate degree in the area of child development or early child education shall receive a grant under section 216 in an amount that is not less than twice the amount of the grant that is made under section 216 to an eligible child care provider who has an associate of the arts degree in the area of child development or early child education.
(ii) PROVIDERS WITH ASSOCIATE DEGREES.—An eligible child care provider who has an associate of the arts degree in the area of child development or early child education shall receive a grant under section 216 in an amount that is not less than 150 percent of the amount of the grant that is made under section 216 to an eligible child care provider who has a child development associate credential (or equivalent) and is employed full-time to provide child care services.

(iii) OTHER PROVIDERS WITH BACCALAUREATE DEGREES.—

(I) IN GENERAL.—Except as provided in subclause (II), an eligible child care provider who has a baccalaureate degree in a field other than child development or early child education shall receive a grant under section 216 in an amount equal to the amount of the grant that is made under section 216 to an eligible child care provider who has an associate of
the arts degree in the area of child development or early child education.

(II) Exception.—If an eligible child care provider who has such a baccalaureate degree obtains additional educational training in the area of child development or early child education, as specified by the State, such provider shall receive a grant under section 216 in an amount equal to the amount of the grant that is made under section 216 to an eligible child care provider who has a baccalaureate degree specified in clause (i).

(D) Amounts to Full-Time Providers.—The State shall make a grant under section 216 to an eligible child care provider who works full-time in a greater amount than the amount of the grant that is made under section 216 to an eligible child care provider who works part-time, based on the State definitions of full-time and part-time work.

(E) Amounts to Experienced Providers.—The State shall make grants under section 216 in progressively larger amounts to
eligible child care providers to reflect the number of years worked as child care providers.

(6) Distribution of Child Care Provider Scholarships.—The State plan shall describe how the lead agency will make grants for scholarships in compliance with section 217 and shall specify the types of educational and training programs for which the scholarship grants made under such section may be used, including only programs that—

(A) are administered by institutions of higher education that are eligible to participate in student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(B) lead to a State or nationally recognized credential in the area of child development or early child education, an associate of the arts degree in the area of child development or early child education, or a baccalaureate degree in the area of child development or early child education.

(7) Employer Contribution.—The State plan shall describe how the lead agency will encourage employers of child care providers to contribute
to the attainment of education goals by eligible child
care providers who receive grants under section 217.

(8) SUPPLEMENTATION.—The State plan shall
provide assurances that amounts received by the
State to carry out sections 216, 217, and 218 will
be used only to supplement, and not to supplant,
Federal, State, and local funds otherwise available to
support existing services and activities (as of the
date the amounts are used) that—

(A) encourage child care providers to im-
prove their qualifications and that promote the
retention of qualified child care providers in the
child care field; or

(B) provide health benefits coverage for
child care providers.

SEC. 216. CHILD CARE PROVIDER DEVELOPMENT AND RE-
TENTION GRANT PROGRAM.

(a) IN GENERAL.—A State that receives funds allot-
ted under section 214 and made available to carry out this
section shall expend such funds to pay for the Federal
share of the cost of making grants to eligible child care
providers in accordance with this section, to improve the
qualifications and promote the retention of qualified child
care providers.
(b) Eligibility To Receive Grants.—To be eligible to receive a grant under this section, a child care provider shall—

(1) have a child development associate credential (or equivalent), an associate of the arts degree in the area of child development or early child education, a baccalaureate degree in the area of child development or early child education, or a baccalaureate degree in an unrelated field; and

(2) be employed as a child care provider for not less than 1 calendar year, or (if the provider is employed on the date of the eligibility determination in a child care program that operates for less than a full calendar year) the program equivalent of 1 calendar year, ending on the date of the application for such grant, except that not more than 3 months of education related to child development or to early child education obtained during the corresponding calendar year may be treated as employment that satisfies the requirements of this paragraph.

(c) Preservation of Eligibility.—A State shall not take into consideration whether a child care provider is receiving, may receive, or may be eligible to receive any funds or benefits under any other provision of this subtitle.
for purposes of selecting eligible child care providers to receive grants under this section.

SEC. 217. CHILD CARE PROVIDER SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—A State that receives funds allotted under section 214 and made available to carry out this section shall expend such funds to pay for the Federal share of the cost of making scholarship grants to eligible child care providers in accordance with this section, to improve their educational qualifications to provide child care services.

(b) ELIGIBILITY REQUIREMENT FOR SCHOLARSHIP GRANTS.—To be eligible to receive a scholarship grant under this section, a child care provider shall be employed as a child care provider for not less than 1 calendar year, or (if the provider is employed on the date of the eligibility determination in a child care program that operates for less than a full calendar year) the program equivalent of 1 calendar year, ending on the date of the application for such grant.

(c) SELECTION OF GRANTEES.—For purposes of selecting eligible child care providers to receive scholarship grants under this section and determining the amounts of such grants, a State shall not—

(1) take into consideration whether a child care provider is receiving, may receive, or may be eligible
to receive any funds or benefits under any other provision of this subtitle, or under any other Federal or State law that provides funds for educational purposes; or

(2) consider as resources of such provider any funds such provider is receiving, may receive, or may be eligible to receive under any other provision of this subtitle, under any other Federal or State law that provides funds for educational purposes, or from a private entity.

(d) Cost-Sharing Required.—The amount of a scholarship grant made under this section to an eligible child care provider shall be less than the cost of the educational or training program for which such grant is made.

(e) Annual Maximum Scholarship Grant Amount.—The maximum aggregate dollar amount of a scholarship grant made by a State to an eligible child care provider under this section in a fiscal year shall be $1,500.

SEC. 218. CHILD CARE PROVIDER HEALTH BENEFITS COVERAGE.

(a) Short Title.—This section may be cited as the “Healthy Early Education Workforce Grant Program Act”.

(b) Definition.—In this section, the terms “dependent”, “domestic partner”, and “spouse”, used with respect
to a State, have the meanings given the terms by the
State.

(c) General Authority.—A State that receives
funds allotted under section 214 and made available to
carry out this section shall expend such funds to pay for
the Federal share of the cost of providing access to afford-
able health benefits coverage for—

(1) eligible child care providers; and

(2) at the discretion of the State involved, the
spouses, domestic partners, and dependents of such
providers.

(d) Permissible Activities.—In carrying out sub-
section (c), the State may expend such funds for any of
the following:

(1) To reimburse an employer of an eligible
child care provider, or the provider, for the employ-
er’s or provider’s share (or a portion of the share)
of the premiums or other costs for coverage under
group or individual health plans.

(2) To offset the cost of enrolling eligible child
care providers in public health benefits plans, such
as the medicaid program under title XIX of the So-
cial Security Act (42 U.S.C. 1396 et seq.), the State
children’s health insurance program under title XXI
of such Act (42 U.S.C. 1397aa et seq.), or public
employee health benefit plans.

(3) To otherwise subsidize the cost of health
benefits coverage for eligible child care providers.

(e) Eligibility Criteria for Health Benefits
Coverage.—The State may establish criteria to limit the
child care providers who may receive benefits through the
allotment.

(f) Selection of Grantees.—For purposes of se-
lecting eligible child care providers to receive benefits
under this section for a fiscal year, a State shall give—

(1) highest priority to—

(A) providers that meet any applicable cri-
teria established in accordance with subsection
(e) and received such assistance during the pre-
vious fiscal year; and

(B) at the State’s discretion, the spouses,
domestic partners, and dependents of such pro-
viders; and

(2) second highest priority to—

(A) providers that meet any applicable cri-
teria established in accordance with subsection
(e) and are accredited by the National Associa-
tion for the Education of Young Children or the
1 National Association for Family Child Care;
2 and
3 (B) at the State’s discretion, the spouses,
4 domestic partners, and dependents of such pro-
5 viders.
6 SEC. 219. ANNUAL REPORT.
7 A State that receives funds appropriated to carry out
8 this subtitle for a fiscal year shall submit to the Secretary,
9 not later than 90 days after the end of such fiscal year,
10 a report—
11 (1) specifying the uses for which the State ex-
12 pended such funds, and the aggregate amount of
13 funds (including State funds) expended for each of
14 such uses; and
15 (2) containing available data relating to grants
16 made and benefits provided with such funds, includ-
17 ing—
18 (A) the number of eligible child care pro-
19 viders who received such grants and benefits;
20 (B) the amounts of such grants and bene-
21 fits;
22 (C) any other information that describes or
23 evaluates the effectiveness of this subtitle;
(D) the particular geographical areas selected under section 215 for the purpose of making such grants;

(E) with respect to grants made under section 216—

(i) the number of years grant recipients have been employed as child care providers;

(ii) the level of training and education of grant recipients;

(iii) to the extent practicable and available to the State, detailed information regarding the salaries and other compensation received by grant recipients to provide child care services before, during, and after receiving such grants;

(iv) the number of children who received child care services provided by grant recipients;

(v) information on family demographics of such children;

(vi) the types of settings described in subparagraphs (A), (B), and (C) of section 212(1) in which grant recipients are employed; and
(vii) the ages of the children who received child care services provided by grant recipients;

(F) with respect to grants made under section 217—

(i) the number of years grant recipients have been employed as child care providers;

(ii) the level of training and education of grant recipients;

(iii) to the extent practicable and available to the State, detailed information regarding the salaries and other compensation received by grant recipients to provide child care services before, during, and after receiving such grants;

(iv) the types of settings described in subparagraphs (A), (B), and (C) of section 212(1) in which grant recipients are employed;

(v) the ages of the children who received child care services provided by grant recipients;
(vi) the number of course credits or credentials obtained by grant recipients; and
(vii) the amount of time taken for completion of the educational and training programs for which such grants were made; and
(G) such other information as the Secretary may require by rule.

SEC. 220. EVALUATION OF HEALTH BENEFITS PROGRAMS

BY SECRETARY.

(a) Evaluation.—The Secretary shall conduct an evaluation of several State programs carried out with grants made under section 218, representing various approaches to raising the rate of child care providers with health benefits coverage.

(b) Assessment of Impacts.—In evaluating State programs under subsection (a), the Secretary may consider any information appropriate to measure the success of the programs, and shall assess the impact of the programs on the following:

(1) The rate of child care providers with health benefits coverage.

(2) The take-up rate by eligible child care providers.
(3) The turnover rate in the child care field.

(4) The average wages paid to a child care provider.

(c) Report.—Not later than 3 years after the date of enactment of this subtitle, the Secretary shall prepare and submit a report to Congress containing the results of the evaluation conducted under subsection (a), together with recommendations for strengthening programs carried out with grants made under section 218.

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

(a) Child Care Provider Development, Retention, and Scholarships.—There are authorized to be appropriated to carry out the activities described in sections 216 and 217 $500,000,000 for fiscal year 2012 and such sums as may be necessary for each of fiscal years 2012 through 2016.

(b) Child Care Provider Health Benefits Coverage.—There is authorized to be appropriated to carry out the activities described in section 218 $200,000,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2016.
Subtitle C—Child Care Facilities Financing

SEC. 231. SHORT TITLE.

This subtitle may be cited as the “Child Care Facilities Financing Act”.

SEC. 232. TECHNICAL AND FINANCIAL ASSISTANCE GRANTS.

(a) Grant Authority.—The Secretary may make grants on a competitive basis to eligible entities in accordance with this section.

(b) Application.—

(1) In general.—To be eligible to receive a grant under subsection (a), an eligible entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require by rule.

(2) Requirements.—The Secretary shall issue rules that take into account the experience and success of eligible entities in attracting private financing and carrying out the types of activities for which grants under subsection (a) are made.

(c) Priority.—In making grants under subsection (a), the Secretary shall give priority to an applicant—

(1) that has demonstrated experience—
(A) providing technical or financial assistance for the acquisition, construction, or renovation of child care facilities;

(B) providing technical, financial, or managerial assistance to eligible child care providers; and

(C) securing private sources of capital financing for child care or other low-income community development; and

(2) whose application proposes to assist eligible recipients that serve—

(A) low-income areas, including—

(i) a community that—

(I) is in a metropolitan area; and

(II) has a median household income that is not more than 80 percent of the median household income of the metropolitan area; or

(ii) a community that—

(I) is not in a metropolitan area; and

(II) has a median income that is not more than 80 percent of the median household income of the State in which the community is located; or
(B) low-income individuals, including eligi-
ble children.

(d) Use of Funds.—

(1) Capital Fund.—Each eligible entity that
receives a grant under subsection (a) shall deposit
the grant amount into a child care capital fund es-
tablished by the eligible entity.

(2) Payments from Funds.—Each eligible ent-
ity shall provide technical or financial assistance (in
the form of loans, grants, investments, guarantees,
interest subsidies, and other appropriate forms of
assistance) to eligible recipients from the child care
capital fund it establishes to pay for—

(A) the acquisition, construction, or im-
provement of child care facilities;

(B) equipment for child care facilities; or

(C) technical assistance to eligible child
care providers to help them undertake facilities
improvement and expansion projects.

(3) Loan Repayments and Investment Pro-
ceeds.—An eligible entity that receives a loan re-
payment or investment proceeds from an eligible re-
cipient shall deposit such repayment or proceeds into
the child care capital fund of the eligible entity for
use in accordance with this section.
(4) APPLICATION.—To obtain assistance from an eligible entity, an eligible recipient shall prepare and submit an application to an eligible entity at such time, in such form, and containing such information as the eligible entity may require.

SEC. 233. DEFINITIONS.

As used in this subtitle:

(1) CHILD CARE FACILITY.—The term “child care facility” means a structure used for the care and development of eligible children.

(2) CHILD CARE SERVICES.—The term “child care services” means child care and early childhood education.

(3) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term “community development financial institution” has the meaning given such term in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).

(4) ELIGIBLE CHILD CARE PROVIDER.—The term “eligible child care provider” has the meaning given such term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).
(5) **ELIGIBLE CHILD.**—The term “eligible child” has the meaning given such term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(6) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a community development financial institution certified by the Department of Treasury; or

(B) an organization that—

(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986;

(ii) is exempt from taxation under section 501(a) of such Code; and

(iii) has demonstrated experience in—

(I) providing technical or financial assistance for the acquisition, construction, or renovation of child care facilities;

(II) providing technical, financial, or managerial assistance to eligible child care providers; and

(III) securing private sources of capital financing for child care or
other low-income community development.

(7) ELIGIBLE RECIPIENT.—The term “eligible recipient” means—

(A) an eligible child care provider that provides child care services to an eligible child;

(B) an organization seeking to provide child care services to an eligible child; or

(C) an organization providing or seeking to provide child care services to low-income children as determined by the Secretary.

(8) EQUIPMENT.—The term “equipment” includes—

(A) machinery, utilities, and built-in equipment, and any necessary structure to house them; and

(B) any other items necessary for the functioning of a child care facility, including furniture, books, and program materials.

(9) METROPOLITAN AREA.—The term “metropolitan area” has the meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

(10) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.
SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $50,000,000 for each of the fiscal years 2012 through 2016.

Subtitle D—Business Child Care Incentive Grant Program

SEC. 241. BUSINESS CHILD CARE INCENTIVE GRANT PROGRAM.

(a) Establishment.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer operated child care programs.

(b) Application.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) Amount of Grant.—The Secretary shall determine the amount of a grant to a State under this section based on the population of children less than 5 years of age in the State as compared to the population of all States receiving grants under this section.

(d) Use of Funds.—
(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to businesses located in the State to enable the businesses to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school aged children;

(F) the entering into of contracts with local resource and referral or local health departments;

(G) assistance for care for children with disabilities; or

(H) assistance for any other activity determined appropriate by the State.
(2) Application.—To be eligible to receive assistance from a State under this section, a business shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) Preference.—

(A) In General.—In providing assistance under this section, a State shall give priority to applicants that desire to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) Consortium.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that may include businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) Limitation.—With respect to grant funds received under this section, a State may not provide in excess of $100,000 in assistance from such funds to any single applicant.

(e) Matching Requirement.—To be eligible to receive a grant under this section a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by an entity receiving assistance in carrying
out activities under this section, the entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the entity under the grant); and

(2) for the second fiscal year in which the entity receives such assistance, not less than 66 2/3 percent of such costs ($2 for each $1 of assistance provided to the entity under the grant); and

(3) for the third fiscal year in which the entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

(g) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant award-
ed for the State under this section and for moni-
toring entities that receive assistance under such
grant.

(2) Audits.—A State shall require each entity
receiving assistance under the grant awarded under
this section to conduct an annual audit with respect
to the activities of the entity. Such audits shall be
submitted to the State.

(3) Misuse of Funds.—

(A) Repayment.—If the State determines,
through an audit or otherwise, that an entity
receiving assistance under a grant awarded
under this section has misused the assistance,
the State shall notify the Secretary of the mis-
use. The Secretary, upon such a notification,
may seek from such an entity the repayment of
an amount equal to the amount of any such
misused assistance plus interest.

(B) Appeals Process.—The Secretary
shall by regulation provide for an appeals pro-
cess with respect to repayments under this para-
graph.

(h) Reporting Requirements.—

(1) 2-Year Study.—
(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of entities to meet the child care needs of communities within States;

(ii) the kinds of partnerships that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary
shall conduct a study to determine the number of child care facilities funded through entities that received assistance through a grant awarded under this section that remain in operation and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) Report.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(i) Definition.—In this section, the term “business” means an employer who employed an average of at least 2 employees on business days during the preceding calendar year.

(j) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section, $60,000,000 for the period of fiscal years 2012 through 2016.

(2) Evaluations and administration.—With respect to the total amount appropriated for such period in accordance with this subsection, not
more than $5,000,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(k) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2017.

TITLE III—PRE-SCHOOL, IN-SCHOOL, AND AFTER SCHOOL ASSISTANCE

Subtitle A—Universal Prekindergarten Act

SEC. 301. SHORT TITLE.
This subtitle may be cited as the “Universal Pre-kindergarten Act”.

SEC. 302. PURPOSE.
The purpose of this subtitle is to ensure that all children 3, 4, and 5 years old have access to a high-quality full-day, full-calendar-year prekindergarten program by providing grants to States to assist in developing a universal prekindergarten program that is voluntary and free-of-charge.
SEC. 303. PREKINDERGARTEN GRANT PROGRAM AUTHORIZATION.

The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall provide grants to an agency designated by each State (hereafter in this subtitle referred to as the “designated State agency”) for the development of high-quality full-day, full-calendar-year universal prekindergarten programs for all children 3, 4, and 5 years old in the State.

SEC. 304. STATE REQUIREMENTS.

(a) STATE MATCHING FUNDS.—Federal funds made available to a designated State agency under this subtitle shall be matched at least 20 percent by State funds.

(b) STATE APPLICATION.—To be eligible to receive funds under this subtitle, a designated State agency shall submit an application at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require. The application shall include the following:

   (1) How the designated State agency, in overseeing the State’s universal prekindergarten program, will coordinate with other State agencies responsible for early childhood education and health programs.
(2) A State plan to establish and implement a
statewide universal prekindergarten program, in ac-
cordance with subsection (c).

(c) STATE PLAN.—The State plan required under
subsection (b)(2) shall include each of the following:

(1) A description of the universal prekind-
garten program that will be established and how it
will support children’s cognitive, social, emotional,
and physical development.

(2) A statement of the goals for universal pre-
kindergarten programs and how program outcomes
will be measured.

(3) A description of—

(A) how funding will be distributed to eli-
gible prekindergarten program providers based
on the need for early childhood education in
each geographical area served by such pro-
viders; and

(B) how the designated State agency will
involve representatives of early childhood pro-
gram providers (including child care providers,
Head Start programs, and State and local
agencies) that sponsor programs addressing
children 3, 4, and 5 years old.
(4) A description of how the designated State agency will coordinate with existing State-funded prekindergarten programs, federally funded programs (such as Head Start programs), public school programs, and child care providers.

(5) A description of how an eligible prekindergarten program provider may apply to the designated State agency for funding under this Act.

(6) A plan to address the shortages of qualified early childhood education teachers, including how to increase such teachers’ compensation to be comparable to that of public school teachers.

(7) How the designated State agency will provide ongoing professional development opportunities to help increase the number of teachers in early childhood programs who meet the State’s education or credential requirements for prekindergarten teachers.

(8) A plan to address how the universal prekindergarten program will meet the needs of children with disabilities, limited English proficiency, and other special needs.

(9) A plan to provide transportation to children to and from the universal prekindergarten program.
(10) A description of how the State will provide the 20 percent match of Federal funds.

(d) ADMINISTRATION.—A designated State agency may not use more than 5 percent of a grant under this subtitle for costs associated with State administration of the program under this subtitle.

SEC. 305. LOCAL REQUIREMENTS.

(a) IN GENERAL.—An eligible prekindergarten program provider receiving funding under this subtitle shall—

(1) maintain a maximum class size of 20 children;

(2) maintain a ratio of not more than 10 children for each member of the teaching staff;

(3)(A) ensure that all prekindergarten teachers meet the requirements for teachers at a State-funded prekindergarten program under an applicable State law; and

(B) document that the State is demonstrating significant progress in assisting prekindergarten teachers on working toward a bachelor of arts degree with training in early childhood development or early childhood education;
(4)(A) be accredited by a national organization with demonstrated experience in accrediting pre-
kindergarten programs; or

(B) provide assurances that it shall obtain such accreditation not later than 3 years after first re-
ceiving funding under this subtitle; and

(5) meet applicable State and local child care li-
censing health and safety standards.

(b) LOCAL APPLICATION.—Eligible prekindergarten program providers desiring to receive funding under this subtitle shall submit an application to the designated State agency overseeing funds under this subtitle con-
taining the following:

(1) A description of the prekindergarten pro-
gram.

(2) A statement of the demonstrated need for a program, or an enhanced or expanded program, in the area served by the eligible prekindergarten pro-
gram provider.

(3) A description of the age-appropriate and de-
velopmentally appropriate educational curriculum to be provided that will help children be ready for school and assist them in the transition to kinder-
garten.
(4) A description of how the eligible prekindergarten program provider will collaborate with existing community-based child care providers and Head Start programs.

(5) A description of how students and families will be assisted in obtaining supportive services available in their communities.

(6) A plan to promote parental involvement in the prekindergarten program.

(7) A description of how teachers will receive ongoing professional development in early childhood development and education.

(8) An assurance that prekindergarten programs receiving funds under this subtitle provide the data required in section 7(e).

SEC. 306. PROFESSIONAL DEVELOPMENT SET-ASIDE.

(a) In general.—A designated State agency may set aside up to 5 percent of a grant under this subtitle for ongoing professional development activities for teachers and staff at prekindergarten programs that wish to participate in the universal prekindergarten grant program under this subtitle. A designated State agency using the set-aside for professional development must include in its application the following:
(1) A description of how the designated State agency will ensure that eligible prekindergarten program providers in a range of settings (including child care providers, Head Start programs, and schools) will participate in the professional development programs.

(2) An assurance that, in developing its application and in carrying out its program, the professional development provider has consulted, and will consult, with relevant agencies, early childhood organizations, early childhood education experts, and early childhood program providers.

(3) A description of how the designated State agency will ensure that the professional development is ongoing and accessible to educators in all geographic areas of the State, including by the use of advanced educational technologies.

(4) A description of how the designated State agency will ensure that such set-aside funds will be used to pay the cost of additional education and training.

(5) A description of how the designated State agency will work with other agencies and institutions of higher education to provide scholarships and other financial assistance to prekindergarten staff.
(6) A description of how the State educational agency will provide a financial incentive, such as a financial stipend or a bonus, to educators who participate in and complete such professional development.

(7) A description of how the professional development activities will be carried out, including the following:

(A) How programs and educators will be selected to participate.

(B) How professional development providers will be selected, based on demonstrated experience in providing research-based professional development to early childhood educators.

(C) The types of research-based professional development activities that will be carried out in all domains of children’s physical, cognitive, social, and emotional development and on early childhood pedagogy.

(D) How the program will train early childhood educators to meet the diverse educational needs of children in the community, especially children who have limited English proficiency, disabilities, and other special needs.
(E) How the program will coordinate with and build upon, but not supplant or duplicate, early childhood education professional development activities that exist in the community.

(b) Uses of Funds.—Funds set aside under this section may be used for ongoing professional development—

(1) to provide prekindergarten teachers and staff with the knowledge and skills for the application of recent research on child cognitive, social, emotional, and physical development, including language and literacy development, and on early childhood pedagogy;

(2) to provide the cost of education needed to obtain a credential or degree with specific training in early childhood development or education;

(3) to work with children who have limited English proficiency, disabilities, and other special needs; and

(4) to select and use developmentally appropriate screening and diagnostic assessments to improve teaching and learning and make appropriate referrals for services to support prekindergarten children’s development and learning.
SEC. 307. REPORTING.

(a) REPORT BY SECRETARY.—For each year in which funding is provided under this subtitle, the Secretary of Health and Human Services shall submit an annual report to the Congress on the implementation and effectiveness of the universal prekindergarten program under this subtitle.

(b) REPORT BY DESIGNATED STATE AGENCY.—Each designated State agency that provides grants to eligible prekindergarten program providers under this subtitle shall submit to the Secretary an annual report on the implementation and effectiveness of the programs in the State supported under this subtitle. Such report shall contain such additional information as the Secretary may reasonably require.

(c) REPORT BY GRANT RECIPIENT.—Each eligible prekindergarten program provider that receives a grant under this subtitle shall submit to the designated State agency an annual report that includes, with respect to the program supported by such grant, the following:

(1) A description of the type of program and a statement of the number and ages of children served by the program, as well as the number and ages of children with a disability or a native language other than English.
(2) A description of the qualifications of the program staff and the type of ongoing professional development provided to such staff.

(3) A statement of all sources of Federal, State, local, and private funds received by the program.

(4) A description of the curricula, materials, and activities used by the program to support early childhood development and learning.

(5) Such other information as the designated State agency may reasonably require.

SEC. 308. FEDERAL FUNDS SUPPLEMENTARY.

Funds made available under this subtitle may not be used to supplant other Federal, State, local, or private funds that would, in the absence of such Federal funds, be made available for the program assisted under this subtitle.

SEC. 309. DEFINITIONS.

In this subtitle:

(1) The term “eligible prekindergarten program provider” means a prekindergarten program provider that is—

(A) a school;

(B) supported, sponsored, supervised, or carried out by a local educational agency;

(C) a Head Start program; or
(D) a child care provider.

(2) The term “prekindergarten program” means a program serving children 3, 4, and 5 years old that supports children’s cognitive, social, emotional, and physical development and helps prepare those children for the transition to kindergarten.

(3) The term “local educational agency” has the meaning given that term in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(4) The term “prekindergarten teacher” means an individual who has received, or is working toward, a bachelor of arts degree in early childhood education.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $10,000,000,000 for fiscal year 2012;
(2) $20,000,000,000 for fiscal year 2013;
(3) $30,000,000,000 for fiscal year 2014;
(4) $40,000,000,000 for fiscal year 2015; and
(5) $50,000,000,000 for fiscal year 2016.
Subtitle B—Universal Free School
Breakfast Program

SEC. 311. UNIVERSAL FREE SCHOOL BREAKFAST PROGRAM.

(a) FREE BREAKFAST AND UNIVERSAL ELIGIBILITY.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended to read as follows:

“SEC. 4. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist States and the Department of Defense to initiate, maintain, or expand nonprofit breakfast programs to provide free breakfasts to school children without regard to family income in all schools which make application for participation and agree to carry out a nonprofit free breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture.

“(b) APPORTIONMENT TO STATES.—

“(1)(A) IN GENERAL.—The Secretary shall make breakfast payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated
for such purpose, in an amount equal to the product
obtained by multiplying—

“(i) the number of breakfasts served free
during such fiscal year to children in schools in
such States which participate in the school
breakfast program under agreements with such
State educational agency; by

“(ii) the national breakfast payment as
prescribed in paragraph (2) of this subsection.

“(B) AGREEMENTS.—The agreements described
in subparagraph (A)(i) shall be permanent agree-
ments that may be amended as necessary. Nothing
in the preceding sentence shall be construed to limit
the ability of the State educational agency to sus-
pend or terminate any such agreement in accordance
with regulations prescribed by the Secretary.

“(2) NATIONAL BREAKFAST PAYMENT.—The
national payment for each breakfast shall be $1.40
(as adjusted each July 1 pursuant to section
11(a)(3)(B) of the Richard B. Russell National
School Lunch Act (42 U.S.C. 1759a(a)(3)(B))).

“(3) LIMITATION.—No breakfast payment may
be made under this subsection for any breakfast
served by a school unless such breakfast consists of
a combination of foods which meet the minimum nu-
tritional requirements prescribed by the Secretary under subsection (e) of this section.

“(4) Nutrition Quality Adjustment.—The Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the Richard B. Russell National School Lunch Act. These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

“(5) Agricultural Commodities.—Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act.

“(6) Effect on Expenditures.—Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be
diminished as a result of funds or commodities received under paragraph (4) or (5).

“(c) State Disbursement to Schools.—Funds paid to any State during any fiscal year for the purpose of this section shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, determines are eligible to participate in the school breakfast program.

“(d) Participation by Schools.—

“(1) Requirements for participation.—To be eligible to participate in the school breakfast program under this section, a school food authority shall—

“(A) agree to serve all breakfasts at no charge to all students who wish to participate without regard to family income in all participating schools; and

“(B) meet all other requirements that the Secretary may reasonably establish.

“(2) Start-up Assistance.—The Secretary is authorized to provide additional assistance to schools not participating in the school breakfast program prior to the enactment of the Family and Workplace
Balancing Act of 2011 in order to assist such
schools to begin participation in the school breakfast
program under this section.

“(3) State educational agency assistance.—Each State educational agency shall assist
schools not participating in the school breakfast pro-
gram prior to the enactment of the Family and
Workplace Balancing Act of 2011 to enter into
agreements with such agencies in order to partici-
pate in the school breakfast program under this sec-
tion.

“(e) Nutritional and other program requirements.—

“(1) Minimum nutritional requirements.—Breakfasts served by schools participating
in the school breakfast program under this section
shall consist of a combination of foods and shall
meet minimum nutritional requirements prescribed
by the Secretary on the basis of tested nutritional
research, except that the minimum nutritional re-
quirements shall be measured by not less than the
weekly average of the nutrient content of school
breakfasts.

“(2) Technical assistance and training.—
The Secretary shall provide through State edu-
cational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to paragraph (1) and in providing appropriate meals to children with medically certified special dietary needs.

“(3) OPTION VERSUS SERVE.—At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this Act to a school for the breakfast.’’.

(b) TECHNICAL AMENDMENTS.—

(1) CHILD NUTRITION ACT OF 1966.—Section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking subsection (b) and re-
designating subsections (c) through (e) as sub-
sections (b) through (d), respectively.

(2) Richard B. Russell National School
Lunch Act.—The Richard B. Russell National
School Lunch Act is amended—

(A) in section 11(a)(1)—

(i) in subparagraph (C), by striking
“or breakfasts” each place it appears;

(ii) in subparagraph (C)(i)(I), by
striking “or in the case of a school” and
all that follows through “4 successive
school years”;

(iii) in subparagraph (D)(iii), by strik-
ing “, or for free and reduced price lunches
and breakfasts,”;

(iv) in subparagraph (D)(iv), by strik-
ing “or school breakfast”; 

(v) in subparagraph (E)(i)(I), by
striking “or in the case of a school” and
all that follows through “4 successive
school years”; and

(vi) in subparagraph (E)(i)(II)—

(I) by striking “or breakfasts”
both places it appears; and
(II) by striking “or school breakfast”;

(B) in section 11(a)(3)(A)—

(i) by striking clause (iii); and

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

(C) in section 13(a)(1)(C), by striking “or breakfasts”; and

(D) in section 17—

(i) in subsection (c), by striking paragraph (2), and redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively; and

(ii) in subsection (f)(3)(E)(ii)(I), by striking “meals” and inserting “lunches”.

Subtitle C—Afterschool Education Enhancement Act

SEC. 341. SHORT TITLE.

This subtitle may be cited as the “Afterschool Education Enhancement Act”.

SEC. 342. AMENDMENTS REGARDING 21ST CENTURY COMMUNITY LEARNING CENTERS.

Part B of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171 et seq.) is amended—
(1) in subsection (a) of section 4203—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(2) in section 4204—

(A) in paragraph (2) of subsection (b)—

(i) by striking subparagraph (F); and

(ii) by redesignating subparagraphs (G) through (N) as subparagraphs (F) through (M), respectively; and

(B) by amending paragraph (1) of subsection (i) to read as follows:

“(1) IN GENERAL.—In awarding grants under this part, a State educational agency shall give priority to applications submitted jointly by eligible entities consisting of not less than—

“(A) 1 local educational agency receiving funds under part A of title I; and

“(B) 1 community-based organization or other public or private entity.”.
TITLE IV—IMPROVING THE WORKPLACE FOR FAMILIES
Subtitle A—Part-Time and Temporary Workers Benefits

SEC. 401. TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER PARTICIPATION, VESTING, AND ACCRUAL RULES GOVERNING PENSION PLANS.

(a) PARTICIPATION RULES.—

(1) IN GENERAL.—Section 202(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(3)) is amended by adding at the end the following new subparagraph:

“(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the 12-month period referred to in subparagraph (A)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.
“(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”.

(2) Conforming Amendment.—Section 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E)) is amended by striking “section 202(a)(3)(A)” and inserting “subparagraphs (A) and (E) of section 202(a)(3)”.

(b) Vesting Rules.—

(1) In General.—Section 203(b)(2) of such Act (29 U.S.C. 1053(b)(2)) is amended by adding at the end the following new subparagraph:

“(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more
hours of service per year but less than 1,000 hours of service per year,
completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

“(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”.

(2) 1-YEAR BREAKS IN SERVICE.—Section 203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is amended by adding at the end the following new subparagraph:

“(F)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more
hours of service per year but less than 1,000 hours of service per year,
completion of 250 hours of service within such period shall be treated as completion of 500 hours of service.

“(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”.

(c) ACCRUAL RULES.—Section 204(b)(4)(C) of such Act (29 U.S.C. 1054(b)(4)(C)) is amended—

(1) by inserting “(i)” after “(C)”; and

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

“(ii) For purposes of this subparagraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to clause (i)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more
hours of service per year but less than 1,000 hours of service per year,
completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

“(iii) For purposes of clause (ii), the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”

SEC. 402. TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER GROUP HEALTH PLANS.

(a) In General.—Part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating section 211 (29 U.S.C. 1061) as section 212; and

(2) by inserting after section 210 (29 U.S.C. 1060) the following new section:
“SEC. 211. TREATMENT OF PART-TIME WORKERS UNDER
GROUP HEALTH PLANS.

“(a) IN GENERAL.—A reduction in the employer-pro-
vided premium under a group health plan with respect to
any employee for any period of coverage solely because the
employee’s customary employment is less than full-time
may be provided under such plan only if the employee is
described in subsection (b) and only to the extent per-
mitted under subsection (c).

“(b) REDUCTIONS APPLICABLE TO EMPLOYEES
WORKING LESS THAN FULL-TIME.—

“(1) IN GENERAL.—An employee is described in
this subsection if such employee, as of the beginning
of the period of coverage referred to in subsection
(a)—

“(A) has customarily completed less than
30 hours of service per week, or

“(B) is employed in a type of position in
which employment customarily constitutes less
than 30 hours of service per week.

“(2) REGULATIONS.—For purposes of para-
graph (1), whether employment in any type of posi-
tion customarily constitutes less than 30 hours of
service per week shall be determined with respect to
each group health plan in accordance with such reg-
ulations as the Secretary may prescribe providing
for consideration of facts and circumstances peculiar
to the work-force constituting the participants in
such plan.

“(c) AMOUNT OF PERMISSIBLE REDUCTION.—The
employer-provided premium under a group health plan
with respect to any employee for any period of coverage,
after the reduction permitted under subsection (a), shall
not be less than a ratable portion of the employer-provided
premium which would be provided under such plan for
such period of coverage with respect to an employee who
completes 30 hours of service per week.

“(d) DEFINITIONS.—For purposes of this section—

“(1) GROUP HEALTH PLAN.—The term ‘group
health plan’ has the meaning provided such term in
section 607(1).

“(2) EMPLOYER-PROVIDED PREMIUM.—

“(A) IN GENERAL.—The term ‘employer-
provided premium’ under a plan for any period
of coverage means the portion of the applicable
premium under the plan for such period of cov-
erage which is attributable under the plan to
employer contributions.

“(B) APPLICABLE PREMIUM.—For pur-
poses of subparagraph (A), in determining the
applicable premium of a group health plan,
principles similar to the principles applicable under section 604 shall apply.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 201(1) of such Act (29 U.S.C. 1051(1)) is amended by inserting “, except with respect to section 211” before the semicolon.

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 211 and inserting the following new items:

“211. Treatment of part-time workers under group health plans.
“212. Effective date.”.

SEC. 403. EXPANSION OF DEFINITION OF EMPLOYEE TO INCLUDE CERTAIN INDIVIDUALS WHOSE SERVICES ARE LEASED OR CONTRACTED FOR.


(1) by inserting “(A)” after “(6)”; and

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

“(B) Such term includes, with respect to any employer, any person who is not an employee (within the meaning of subparagraph (A)) of such employer and who provides services to such employer, if—

“(i) such person has (pursuant to an agreement with such employer or any other person) performed
such services for such employer (or for such em-
ployer and related persons (within the meaning of
section 144(a)(3) of the Internal Revenue Code of
1986)) for a period of at least 1 year (6 months in
the case of core health benefits) at the rate of at
least 500 hours of service per year, and

“(ii) such services are of a type historically per-
formed, in the business field of the employer, by em-
ployees (within the meaning of subparagraph (A)).”.

SEC. 404. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection
(b), the amendments made by this subtitle shall apply with
respect to plan years beginning on or after January 1,
2012.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
PLANS.—In the case of a plan maintained pursuant to 1
or more collective bargaining agreements between em-
ployee representatives and 1 or more employers ratified
on or before the date of the enactment of this Act, sub-
section (a) shall be applied to benefits pursuant to, and
individuals covered by, any such agreement by substituting
for “January 1, 2012” the date of the commencement of
the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2012, or
(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2014.

(e) PLAN AMENDMENTS.—If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2012, if—

(1) during the period after such amendment made by this Act takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this subtitle, and

(2) such plan amendment applies retroactively to the period after such amendment made by this subtitle takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.
Subtitle B—United States Business Telework Act

SEC. 411. SHORT TITLE.

This subtitle may be cited as the “United States Business Telework Act”.

SEC. 412. TELEWORK PILOT PROGRAM.

(a) PROGRAM.—In accordance with this subtitle, the Secretary of Labor shall conduct, in not more than 5 States, a pilot program to raise awareness about telework among employers and to encourage such employers to offer telework options to employees.

(b) PERMISSIBLE ACTIVITIES.—In carrying out the pilot program, the Secretary is encouraged to—

(1) produce educational materials and conduct presentations designed to raise awareness of the benefits and the ease of telework;

(2) conduct outreach to businesses that are considering offering telework options;

(3) acquire telework technologies and equipment to be used for demonstration purposes; and

(4) ensure that expectant and new mothers who are employed by businesses that participate in the pilot program are given the option to telework during the 1-year period after the date of birth.
SEC. 413. REPORT TO CONGRESS.

Not later than 2 years after the first date on which funds are appropriated to carry out this subtitle, the Secretary shall transmit to the Congress a report containing the results of an evaluation of the pilot program and any recommendations as to whether the pilot program, with or without modification, should be expanded.

SEC. 414. DEFINITION.

In this subtitle, the term “telework” means the performance of any portion of work functions by an employee outside the normal place of business under circumstances which reduce or eliminate the need to commute.

SEC. 415. TERMINATION.

The pilot program shall terminate 2 years after the first date on which funds are appropriated to carry out this subtitle.

SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 to carry out this subtitle.